

SEVENTY-FOURTH LEGISLATIVE DAY

The House met at 1:00 p.m. and was called to order by Mr. Speaker McWherter.

The proceedings were opened with prayer by Reverend Odis Green, Union Hill Cumberland Presbyterian Church, Brush Creek, Tennessee.

Representative Buck led the House in the Pledge of Allegiance to the Flag.

The roll call was taken with the following results:

Present 95

Representatives present were: Ashford, Atchley, Bell, Bewley, Bishop, Bissell, Blackburn, Bragg, Buck, Burks, Burleson, Burnett (Fentress), Burnett (Sumner), Bussart, Butler, Byrd, Carter, Cawood, Chiles, Clark, Cobb, Copeland, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DeBerry, DePriest, Dixon, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Fuqua, Gaia, Gill, Good, Hall, Henry, Hillis, Hood, Hurley, Jensen, Johnson, Kernell, King, Lanier, Lashlee, Longley, Love, McAfee, McKinney, Martin, Miller, Moore, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Murray (Madison), Naifeh, Nolan, Phillips, Pickering, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Shockley, Small, Smith, Spence, Stafford, Stallings, Starnes, Steinhauer, Sterling, Tanner, Turner, Wallace, Watson, Webb, Williams, Withers, Wolfe, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 95.

MESSAGE FROM THE SENATE

MR. SPEAKER: I am directed to transmit to the House, Senate Bills Nos.

1997 — To enact Tennessee Health Planning and Resources Development Act of 1978;

2122 — To amend Section 52-1503, Code;

2183 — To amend Sections 33-403 and 33-407, Code;

2456 — To regulate coon dog training; all passed by the Senate.

CLYDE W. McCULLOUGH, JR.,
Chief Clerk.

MESSAGE FROM THE SENATE

MR. SPEAKER: I am directed to transmit to the House, Senate Bills Nos.

1504 — To create office, County Attorney, Smith County;

2298 — To amend Title 9, Chapter 8, Code;

2396 — To amend Section 54-1004, Code;

2444 — To amend Purchasing Commission Act, Smith County;

2469 — To amend Road Law, Wilson County;

2470 — To amend Chapter 50, Private Acts 1971; all passed by the Senate.

CLYDE W. McCULLOUGH, JR.,
Chief Clerk.

MESSAGE FROM THE SENATE

MR. SPEAKER: I am directed to transmit to the House, Senate Joint Resolutions Nos.

181 — Relative to study, destruction of trees, highway rights-of-way, Transportation Department;

232 — Relative to investigation, abandonment, certain portion of L & N Railroad; adopted for concurrence.

CLYDE W. McCULLOUGH, JR.,
Chief Clerk.

MESSAGE FROM THE SENATE

MR. SPEAKER: I am directed to return to the House, House Bills Nos.

1480 — To amend Section 38-1113, Code;

1805 — To amend Section 6-728, Code; both substituted for Senate Bills on same subject, amended, and passed by the Senate.

CLYDE W. McCULLOUGH, JR.,
Chief Clerk.

MESSAGE FROM THE SENATE

MR. SPEAKER: I am directed to return to the House, House Joint Resolution No.

326 — Relative to naming the Alex Haley Roadside Park; concurred in by the Senate.

CLYDE W. McCULLOUGH, JR.,
Chief Clerk.

MESSAGE FROM THE SENATE

MR. SPEAKER: I am directed to return to the House, House Bills Nos.

1744 — To amend Section 23-801, Code;

1745 — To amend Section 34-108, Code;

1746 — To amend Section 34-107, Code;

2031 — To make certain provisions, retarded offenders and delinquents;

2459 — To amend Section 53-2002, Code;

2467 — To amend Charter, Friendship;

2477 — To amend Charter, Pulaski;

2481 — To abolish office of tax assessor, Smithville;

2483 — To amend Section 6-3303, Code;

2493 — To amend Charter, LaGrange;

2494 — To make certain provisions, Attorney for Roane County;

2495 — To amend Charter, Red Boiling Springs;

2496 — To establish port authority, Sumner County;

2497 — To establish Energy Authority, Sumner County;

2498 — To amend Charter, Ardmore; all substituted for Senate Bills on same subject and passed by the Senate.

CLYDE W. McCULLOUGH, JR.,
Chief Clerk.

MESSAGE FROM THE SENATE

MR. SPEAKER: I am directed to return to the House, House Bills Nos. 1579, 1728, 1918, 2049, 2072, 2254, 2256, 2320, 2328, 2362, 2363, 2388, 2463, 2464, 2475, and 2484; also, House Joint Resolutions Nos. 335, 336, 342, 425, 426, 431, 433, 437, 438, 442, 449, 473, 474 and 481; all signed by the Speaker.

CLYDE W. McCULLOUGH, JR.,
Chief Clerk.

REPORT OF CHIEF ENGROSSING CLERK

MR. SPEAKER:

Your Chief Engrossing Clerk begs leave to report that we have transmitted to the Governor the following: House Bills Nos. 798, 861, 1033, 1549, 1579, 1610, 1636, 1648, 1728, 1765, 1873, 1918, 2049, 2069, 2072, 2151, 2254, 2255, 2256, 2320, 2328, 2362, 2363, 2388, 2463, 2464, 2471, 2475, 2484 and 2488; and House Joint Resolutions Nos. 332, 335, 336, 342, 425, 426, 431, 433, 437, 438, 442, 449, 473, 474 and 481; for his action.

MARILYN EVELYN HAND,
Chief Engrossing Clerk.

MESSAGE FROM THE SENATE

MR. SPEAKER: I am directed to transmit to the House, Senate Bills Nos. 627, 701, 702, 1550, 1558, 1569, 1580, 1610, 1629, 1765, 1771, 1791, 1823, 1829, 1945, 1946, 1966, 1971, 2041, 2108, 2167, 2289, 2414, 2418, 2419, 2420 and 2426; also, Senate Joint Resolutions Nos. 145 and 183; all for the signature of the Speaker.

CLYDE W. McCULLOUGH, JR.,
Chief Clerk.

SIGNED

The Speaker announced that he had signed the following: Senate Bills Nos. 627, 701, 702, 1550, 1558, 1569, 1580, 1610, 1629, 1765, 1771, 1791, 1823, 1829, 1945, 1946, 1966, 1971, 2041, 2108, 2167, 2289, 2414, 2418, 2419, 2420 and 2426; and Senate Joint Resolutions Nos. 145 and 183.

CALENDAR

House Bill No. 2021 — To enact the Obscenity Act of 1978.

Mr. Scruggs moved that House Bill No. 2021 be passed on third and final reading.

Mr. Murray (Madison) moved to amend as follows:

AMENDMENT NO. 1

Amend House Bill No. 2021 by deleting Sections one through seven in their entirety and by substituting instead the following:

SECTION 1. This act shall be known and may be cited as the "Tennessee Obscenity Act of 1978".

SECTION 2. Tennessee Code Annotated, Title 39, Chapter 30, is amended by deleting the chapter in its entirety and by substituting instead the following:

39-3001. The General Assembly hereby finds and declares that unfettered communication between and among persons by means of constitutionally protected speech is of vital interest to society and the constitutional form of government under which this state and nation exists. The General Assembly further hereby finds and declares that dissemination, commercial dissemination, and other forms of commercial exploitation of sexual interests by means of obscenity and obscene communication is not a constitutionally protected form of communication and the existence and proliferation of such unprotected forms of portrayals, representations, displays and performances in society presents a grave threat both to the interests of society in maintaining at least a modicum of public decency and public morality and the interest of society in guaranteeing freedom of constitutionally protected speech. The General Assembly further hereby finds and declares that both the interests of society in protecting unfettered communication by constitutionally protected speech and the interest of society in protecting itself from the threats engendered by obscene portrayals, representations, depictions, descriptions, displays, and performances require that this act be enacted.

39-3002. As used in this act, unless the context otherwise requires:

(a) "disseminate" means to transfer, distribute, dispense, lend, show, display, exhibit, send, transport, or broadcast, whether for profit or otherwise.

(b) "commercially disseminate" means to disseminate upon payment or promise of payment by the recipient or any other person or taxable entity for consideration in tender, kind, swap, or trade, excluding television transmissions into a private residence within which there is no commercial dissemination.

(c) "obscene material", if disseminated to the general public, means that:

(1) the average person applying contemporary community standards, would find that the work, taken as a whole, appeals to the prurient interest; and

(2) the work depicts or describes, in a patently offensive way, sexual conduct; and

(3) the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.

(d) "obscene material", if designed for and primarily disseminated to a sociologically identifiable sexually deviant class of persons, means:

(1) that the material appeals to the average member of the identified class; and

(2) that applying contemporary community standards of the general population, the work taken as a whole, appeals to a prurient interest in sex; and

(3) that the material depicts or describes, in a patently offensive way, sexual conduct; and

(4) that the work, taken as a whole, lacks serious literary, artistic, political or scientific value.

(e) the phrase "average person" means a hypothetical human being whose attitude represents a synthesis and composite of all of the various attitudes of all individuals, irrespective of age, in Tennessee society at large, which attitude is the result of human experience, understanding, development, culturalization, and socialization in Tennessee, taking into account relevant factors which affect and contribute to that attitude, limited to that which is personally acceptable, as opposed to, that which might merely be tolerated.

(f) in the phrase "contemporary community standards", the word "contemporary" means what was prevailing at the time of the offense charged; the words "community standards" mean a belief or course of conduct relative to open general adult public exhibition and open general adult public dissemination among Tennessee citizens of portrayals, representations, descriptions, depictions, and live performances of sexual conduct deemed proper and appropriate and which is accepted in Tennessee society at large encompassing people in general existing in community with one another having interests common to humanity without regard to place of residence in this state.

(g) "taken as a whole" means considered as a single unit which is logically and structurally identifiable as a whole by or because of the sameness or commonality in its subject, or its theme, or its plot and plot development, or its story, or its message, or its ideas, or its thoughts, or its depiction, or its portrayal, provided: bound volumes, including but not limited to magazines or other periodicals, which contain miscellaneous articles, stories, poems, or other writings, illustrations, and photographic depictions, with each piece or portrayal standing on its own merit and having no content interdependence with other pieces bound together to make a single volume, may not be considered as a whole unless there is such interdependence of, between, or among the separate pieces that to remove any one of them materially would change the type, as opposed to the quality, of the volume as a magazine, periodical, or other publication or communicative medium; otherwise, each separate piece or pictorial or combination of them shall be separately taken as a whole.

(h) the phrase "appeals to" means directed toward the arousal or titillation of an interest irrespective of whether successful in actually arousing or titillating the interest.

(i) the phrase "prurient interest" means that quality inherent in all human beings which when aroused evokes feelings of shame, embarrassment, disgust, or revulsion or evidences mental, emotional or physical pathology, or is degrading in that it elicits unwholesome lusts, cravings, or longings.

(j) the word "unwholesome" means that which, if continued, would present an obstacle or impairment to culturalization according to prevailing norms and mores in society, including, but not limited to, the removal of feelings of guilt in contravention of cultural teachings that guilt is the normal feeling providing inhibition which discourages similar performances under like circumstances.

(k) "value" means that quality which makes a thing an essential part of the exposition of ideas and of more than a slight social interest as a step to truth and from which a benefit may be derived which is not clearly outweighed by the social interest in public order, public decency, and public morality.

(1) "Sexual conduct depicted in a patently offensive way" means:

(1) clearly visible or detailed written portrayal, representation, description, depiction, or live performance, irrespective of the actual visibility of the external or internal genitalia or pubic region, or human vaginal or anal sexual intercourse; fellatio; cunnilingus; anilingus; oral or genital contact as a part of human male or female homosexual acts; manual or digital insertion into or fondling of the external or internal genitalia or pubic region, anus or rectal cavity; oral contact with the areola or nipple of female breasts as a part of or preparatory to other sexual activity here described; coprophilia; urolagnia; masturbation; pedophilia; necrophilia; bestiality; sadistic sexual excitement; masochistic sexual excitement; sexual excitement by use of bondage or masks; or

(2) clearly visible portrayal, representation, depiction or live performance which focuses on and tends to concentrate the attention of a viewer on the human external or internal genitalia, anus, rectal cavity, or the pubic region designed, irrespective of success in so doing, so as to stimulate unwholesome lustful thoughts, cravings, or desires.

(m) "regulated business" means any enterprise:

(1) Which commercially disseminates printed or filmed non-obscene pictorial "sexual conduct depicted in a patently offensive way" as that phrase is used in Section 39-3002 (1); provided, more than thirty percent (30%) of the stock-in-trade, inventory, or sales during any given twenty-four (24) hour period consists of books, magazines, or periodicals pictorially depicting sexual conduct in a patently offensive way or, in the case of a motion picture house, more than two (2) films, or the same film more than twice, are shown for public exhibition in any five (5) day period where such film or films depict sexual conduct in a patently offensive way; provided that such motion picture house shows films of all types on the same regular schedule during at least six (6) days of each calendar week.

(2) which offers a service, including fondling, rubbing or otherwise touching external or internal human genitalia, pubic region, or female breasts by a person other than a licensed medical practitioner or chiropractor for the specific purpose of particular medical treatment or diagnosis; or

(3) which offers a service or entertainment performed by live persons to or for patrons by rendering service or performances by dancers, waitresses, strippers, impersonators or any other live persons performing in less than attire which completely and opaquely covers the external genitalia, buttocks, female breasts below a point immediately above the top of the areola or displaying the human male external genital in a discernibly turgid state, even if completely and opaquely covered.

(n) "public morality" means minimum standards of public conduct to be distinguished from private and individual choices, preferences, beliefs, or tastes not involving public displays or conduct other than expression or advocacy or such private and individual choices, preferences, beliefs, or tastes, by use of a non-obscene means of communication.

(o) "material" means all orally presented, visually presented, or written matter whether through the medium of print, film, or conduct by live persons.

(p) "in detail", as used in Section 39-1013, means made up, when taken as a whole, of clinically explicit, repetitive descriptions of physical sexual conduct.

39-3003. A person not acting as an agent of a non-taxable entity, corporation, or any other taxable entity, with knowledge of the general nature and character of the content of material involved, irrespective of the absence or presence of an evil motive, bad purpose or intent to violate or disregard the law, is guilty of an offense if he or it:

(a) willfully disseminates obscene material:

(1) to a person under eighteen (18) years of age; or

(2) to any person in a manner affording no immediately effective opportunity to avoid initial exposure to such material; or

(b) willfully commercially disseminates obscene material; or

(c) willfully possesses, actually or constructively, with the intent to commercially disseminate, any obscene materials; or

(d) willfully receives for personal use by commercial dissemination within the state of Tennessee or willfully receives for the purpose of dissemination by commercial dissemination any obscene material; provided: If a person, corporation or other taxable entity, operating in business as a seller of books, magazines, periodicals, or as a motion picture theater, as a part of the operation of said business, receives by commercial dissemination any or multiple copies of any book, magazine, periodical, or film, without such person nor any employee of any such person, corporation, or other taxable entity, prior to receipt, having seen the book, magazine, periodical, or film, such corporation or other taxable entity shall not be subject to prosecution for the possession or dissemination of the book, magazine, periodical, or film, if he, or it returns said book, magazine, periodical, and all copies of it within seven (7) days of its receipt and before dissemination of any copies of it; or

(e) knowing, or having reason to know, that it will be commercially disseminated, willfully finances the manufacture or production, produces, manufactures, directs, photographs, poses, acts, or in any way assists in the production, copying, or reproduction of visually represented obscene material:

(f) willfully owns, possesses, manages, rents either as lessor or lessee, operates, provides or receives money or other consideration for use in acquiring or maintaining rights to or an interest in real property or appurtenances thereon having reason to believe that such real property is being or will be used as a place or establishment where or from which obscene materials are or will be produced, manufactured, exhibited, or displayed for commercial dissemination, or are or will be commercially disseminated.

39-3004. Prosecutions, trials and appeals in connection with the offenses of disseminating obscene material in violation of Section 39-3003 or disseminating sexually explicit materials to minors in violation of Section 39-1013 shall be expeditiously concluded by requiring that:

(a) even if a defendant charged with the offense of disseminating obscene material in violation of Section 39-3003 waives his right to trial by jury, a jury of twelve (12) persons, if within the three year period next preceding the last date alleged as the date of the offense no jury of twelve (12) persons has so done, shall be presented evidence, be instructed by the presiding court as to the law, and return a special verdict reporting whether it found beyond a reasonable doubt that the questioned material is obscene. If the defendant charged with disseminating questioned material desires to plead guilty, said plea must be finally entered before the jury renders its verdict as to the obscenity of the questioned material. If such a defendant has not entered a guilty plea before such time, the presiding court shall enter a not guilty plea for the defendant, and the verdict of the jury on the question of obscenity shall be binding on the defendant as well as all other jury questions bearing on the guilt or innocence of the defendant. Anything to the contrary notwithstanding, unless the jury determines that the questioned material is obscene, the provisions of Section 39-3005 shall not apply to the defendant.

(b) If a defendant does not waive the right to trial, said defendant must be tried by a jury and, in addition to returning a verdict as to the guilt or innocence of each defendant charged with disseminating obscene materials in violation of Section 39-3003, the jury shall return a special verdict specifying as to each item of material alleged to be obscene whether it finds beyond a reasonable doubt that it is or is not obscene. Any such materials so found to be obscene shall be disposed of according to Sections 39-3016 and 39-3022, irrespective of the guilt or innocence of any defendant charged with disseminating it.

(c) Within ten (10) calendar days after arraignment of all defendants charged in a single indictment with the offense of disseminating obscene material in violation of Section 39-3003 or disseminating sexually explicit materials to minors in violation of Section 39-1013, or at such time as the presiding court determines that some codefendants cannot be arraigned in the near future, such court shall notify all parties of the date set for the commencement of trial. The trial, or final disposition without a trial, shall commence within ninety (90) calendar days after arraignment of the last defendant in any case to be arraigned as herein provided; and special judges shall be used whenever necessary to avoid inordinate delay either in the trial of a defendant charged with a violation of this act or in the trial of a defendant charged with a capital offense pending at the time of the return of an indictment for a violation of this Act. The court shall not grant delays or continuances at the request of either the prosecution or defense for the mere convenience of the court or parties or for any other reason that could be resolved by the diligence of the parties unless, in the sound discretion of the judge, failure to grant such a request would prejudice the opportunity for justice. If any such request is granted, it shall be only for the shortest time necessary to alleviate the obstacle necessitating the delay or continuance.

(d) Appellate courts, required to review proceedings had in connection with charges of the offense of disseminating obscene material in violation of Section 39-3003 or disseminating sexually explicit materials to minors in violation of Section 39-1013, shall, consistent with the rules governing time within which an appeal can be perfected, assign such proceedings high priority, to the degree applicable, in the same manner as required by Section 39-3004 (c) for trial courts. Such appellate courts shall render a decision in the shortest amount of time required consistent with accomplishing justice and without any delay attributable to any proceeding other than the instant one.

(e) The court in which the charges are pending shall issue a warrant for the arrest of any person charged with commission of the offense of disseminating obscene materials in violation of Section 39-3003 or disseminating sexually explicit materials to minors in violation of Section 39-1013 who has subsequently located himself outside this State or of any person who from a place outside this State has committed or caused to be committed either of such offenses. The Governor shall diligently and expeditiously exhaust all efforts to see that said persons are extradited from the place where they are located to the State of Tennessee to answer said charges against them.

39-3005. A person, corporation, or any other taxable entity, who or which has been adjudged guilty of the offense of disseminating obscene material in violation of Section 39-3003 or disseminating sexually explicit materials to minors in violation of Section 39-1013, shall be punished as follows:

(a) a person, who is an employee of another person or of a business, who has no proprietary interest in the business, who has no supervisory authority over any other employees of the business, who has no policymaking nor discretionary authority over the operation of the business, who is merely a ministerial employee of another person or of the business whose conduct in the operation of the business is governed only by instructions received from a supervisor, and who is being prosecuted as a result of his conduct in the operation of the business in obedience to instructions given said employee by a supervisor, shall be imprisoned, without possibility of probation, parole, or any other program whereby such person is released, permanently or temporarily, prior to his expiration date, for a period not less than six (6) months nor more than one (1) year unless such person provides the district attorney or his designee with a sworn statement and, if requested by the district attorney, at trial gives truthful testimony as to the identity of the natural person who gave him the instructions to engage in the conduct in question and all of the circumstances surrounding that conduct in which case he shall be immunized from further prosecution for the conduct in question and any other conduct concerning which relevant testimony is given to the issue at hand.

(b) A person who is in violation of Section 39-3003(d) because of receipt for personal use by commercial dissemination within the state of Tennessee shall be guilty of a misdemeanor unless such person provides the district attorney or his designee with a sworn statement and, if requested by the district attorney, at trial gives truthful testimony as to the identity of the natural person or entity from whom or which he received the questioned material and all of the circumstances surrounding the receipt of the questioned material in which case he shall be immunized from further prosecution for receipt of the material in question and any other conduct concerning which relevant testimony is given to the issue at hand.

(c) A person who disseminates no more than three (3) copies each of three (3) separate obscene materials or disseminates no more than three (3) copies each of three (3) separate prohibited sexually explicit materials to minors in any single twenty-four (24) hour period or, in the case of a motion picture, exhibits the same obscene motion picture or the same prohibited sexually explicit motion picture to minors more than two (2) days in succession or, more than two (2) different obscene motion pictures or more than two (2) different prohibited sexually explicit motion pictures to minors during any single fourteen (14) day period, shall, if it is his first prosecution under this Act and if he has no prior conviction for a misdemeanor, felony, or any other class of offense in violation of any ordinance or law of any municipality, state, or the United States concerning obscene materials, be imprisoned, without possibility of probation, parole, or any other program whereby such person is released, permanently or temporarily, prior to his expiration date for a period of not less than six (6) months nor more than one (1) year unless such person provides the district attorney or his designee with a sworn statement and, if requested by the district attorney, at trial gives truthful testimony as to the identity of the natural person from whom the questioned materials were received and all of the circumstances surrounding the receipt of them in which case he shall be immunized from further prosecution for the conduct in question and any other conduct concerning which relevant testimony is given to the issue at hand.

(d) A person who is in violation of Section 39-3003 (a) because of non-commercial dissemination of obscene materials or who is in violation of Section 39-3013 because of non-commercial dissemination of sexually explicit materials to minors shall be guilty

of a misdemeanor unless such person provides a sworn statement and, if requested by the district attorney, at trial gives truthful testimony as to the identity of the natural person or entity from whom or which he received the questioned material and all of the circumstances surrounding the receipt of the questioned material in which case he shall be immunized from further prosecution for the receipt of the material in question and any other conduct concerning which relevant testimony is given to the issue at hand.

(e) A person who is a proprietor or holds a supervisory position in the operation of a business engaged in the wholesale or retail distribution of books, periodicals, motion picture films or other communicative materials only to patrons or customers in Tennessee or states of the United States contiguous to Tennessee, provided: That the business or enterprise in question carries no more than thirty percent (30%) of its stock-in-trade and/or inventory, nor thirty percent (30%) of its sales during any given twenty-four hour period consists of books, periodicals, motion picture films or other communicative materials which depict "sexual conduct in a patently offensive way" as that phrase is defined in Section 39-3002 (1) or, in the case of a motion picture exhibitor, no more than two (2) films nor the same film more than twice is shown for public exhibition in any five (5) day period which film or films pictorially depict such patently offensive sexual conduct, for the first offense under this act only, shall be imprisoned in the county jail without possibility of probation, parole, or any other program whereby such person is released, permanently or temporarily, prior to his expiration date, for a period not less than thirty (30) days and shall be fined no more than five thousand dollars (\$5,000.00).

(f) A person, corporation, or other taxable entity not meeting the qualifications for sentencing under Section 39-3005 (a), (b), (c), (d) or (e) and who or which has not prior convictions for a misdemeanor, felony, or any other class of offense in violation of any ordinance or law of any municipality, state, or the United States concerning obscene materials, shall be fined no less than five thousand (\$5,000) dollars nor more than fifty thousand (\$50,000) dollars and shall be imprisoned in the state penitentiary, without possibility of probation, parole, or any other program whereby such person is released, permanently or temporarily, prior to his expiration date, for a period of not less than six (6) months nor more than five (5) years.

(g) A person, corporation, or other taxable entity not meeting the qualifications for sentencing under Section 39-3005 (a), (b), (c), (d), or (e) and who or which has one (1) prior conviction for a misdemeanor, felony or any other class of offense in violation of any ordinance or law of any municipality, state, or the United States concerning obscene materials, shall be fined no less than twenty-five thousand (\$25,000) dollars nor more than seventy-five thousand (\$75,000) dollars and shall be imprisoned in the state penitentiary, without possibility of probation, parole, or any other program whereby such person is released, permanently or temporarily, prior to his expiration date, for a period of not less than eighteen (18) months nor more than ten (10) years.

(h) A person, corporation, or other taxable entity not meeting the qualifications for sentencing under Section 39-3005 (a), (b), (c), (d), or (e) and who or which has two (2) or more prior convictions for misdemeanor, felony, or any other class of offense in violation of any ordinance or law of any municipality, state, or the United States concerning obscene materials, shall be fined no less than fifty thousand (\$50,000) dollars

nor more than one hundred and fifty thousand (\$150,000) dollars and shall be imprisoned in the state penitentiary, without possibility of probation, parole, or any other program whereby such person is released, permanently or temporarily, prior to his expiration date, for a period of not less than three (3) years nor more than twenty (20) years.

(i) Upon a person's second conviction for the offense of disseminating obscene material in violation of Section 39-3003 or disseminating sexually explicit materials to minors in violation of Section 39-1013, the trial court shall revoke such person's bail, bond or other recognizance and the person shall not be further entitled to bail unless and until a new trial is granted.

(j) A person, corporation, or other taxable entity, who or which willfully employs, uses, instructs, counsels, aids, abets, or causes a person under eighteen (18) years of age to disseminate obscene material in violation of Section 39-3003 or to disseminate sexually explicit materials to minors in violation of Section 39-3013, shall be punished the same as if said person, corporation, or taxable entity has two (2) or more prior convictions as specified in Section 39-3005 (h).

39-3006. Unless material which is contraband under the provisions of Section 39-3017 or is allegedly obscene material is voluntarily delivered by the person in actual or constructive possession of it to a duly commissioned law enforcement officer, it can be obtained only by issuance of a search and seizure warrant by a court duly authorized under the law to act neutrally and detached from the affiant seeking such a warrant. Before a search and seizure warrant authorizing seizure of allegedly obscene material may be issued it must:

(a) be applied for by a duly commissioned law enforcement officer in the manner and form required by law for issuance of search and seizure warrants generally; and

(b) have attached as a part of the application a sworn affidavit or a copy of each specific item or items alleged to be obscene and intended to be seized providing a detailed and objective description of the content of each specific item; or

(c) if the material or specific item is freely available for inspection or viewing by the general public or private patrons, in lieu of the requirements of Section 39-3006 (b), the person presiding over the authorized court may, before seizure, personally go to the place where the material or item is available and personally inspect and view the content of the material or item intended to be seized.

39-3007. Upon being satisfied that the application for a search and seizure warrant is legally sufficient in all other respects, the person presiding over the authorized court must determine from the application or in the manner specified in Section 39-3006 (c), that there is probable cause to believe either that the specific items intended to be seized are obscene or are contraband under the provisions of Section 39-3017 before issuing the applied-for search and seizure warrant. Upon such a determination being made, the warrant shall issue authorizing the search for and seizure of the specific items alleged to be obscene and specified as intended to be seized.

39-3008. Once a warrant issues in accordance with Section 39-3007 authorizing the seizure of allegedly obscene materials, duly commissioned law enforcement officers may execute such warrant in the same manner as provided by law for the execution of search

and seizure warrants generally and may search the premises to determine if there be any other copies of the specific items seized thereon and, if such other copies are found, shall prepare an inventory specifying their number and precise location within the premises. Written notice, irrespective of whether other copies are found, of the provisions of Section 39-3010 shall be left prominently posted at the premises if there is not a person in charge of such premises present to whom such notice can be personally delivered. Where contraband is seized, any additional copies found may be forthwith seized and written notice given of the provisions of Section 39-3020 in the same manner as required if giving notice of Section 39-3010 where allegedly obscene material is seized.

39-3009. If copies of the specific alleged obscene item seized in accordance with Section 39-3008 are found on the premises, the inventory specifying the number thereof and their location on the premises shall be immediately filed with the court which issued the search and seizure warrant. Such court shall immediately issue a temporary restraining order prohibiting anyone from removing, altering, or in any way disturbing the location of such copies. The temporary restraining order shall be immediately thereafter personally served at the premises on any individual who may be in charge thereof or, if no such individual is present at the premises, by posting it in a prominent place within the premises.

39-3010. Within forty-eight (48) hours, excluding Saturdays, Sundays, and legal holidays, after execution of a search and seizure warrant in accordance with Section 39-3008 authorizing the seizure of allegedly obscene materials, any person may demand an adversary hearing by personally appearing before the court and filing a sworn written statement. Such statement shall state that he personally has a possessory interest in the seized item and shall specify the nature and basis of that interest. The statement shall also include a provision that such person demands that an adversary hearing be conducted in the appropriate court of record to contest the determination that there is probable cause to believe that the seized items are obscene. The written demand for an adversary hearing shall not be used as evidence in any future criminal proceeding except for the purpose of impeaching the credibility of a witness or, where necessary, to prove perjury.

39-3011. Upon proper demand in accordance with Section 39-3010 being filed, an appropriate court of record shall conduct an adversary hearing in open court commencing no less than forty-eight (48) hours, excluding Saturdays, Sundays, and legal holidays, after the filing of the demand. At such hearing, the court shall determine, de novo, whether there is reason to believe that there is probable cause to find the items seized are obscene. The court shall hear only so much evidence as is necessary to make such determination and shall consider no other issue. The adversary hearing shall be concluded without delay.

39-3012. Immediately upon conclusion of the adversary hearing conducted in accordance with Section 39-3011, the court shall:

(a) if it determines that there is probable cause to believe that the questioned material is obscene, order that it be held for use as evidence in forthcoming criminal proceedings; and

(1) if a temporary restraining order has issued in accordance with Section 39-3009, issue a supplementary search and seizure warrant authorizing duly commissioned law enforcement officers to search for and seize the copies of the seized item on the premises where previously found because the General Assembly finds and declares that:

(A) possession by the same person or at the same place of more than one copy of the same item is probative evidence as to whether the possessor had knowledge of the general nature and character of the contents of the item and that the weight of that evidence increases proportionately as the number of copies possessed increases; and

(B) possession by the same person or at the same place of more than one copy of the same item is probative evidence as to whether the possessor possessed such items with the intent or for the purpose of commercial dissemination and that the weight of that evidence increases proportionately as the number of copies possessed increases.

(b) If it finds that there is no probable cause to believe that the questioned material is obscene:

(1) Order that the questioned material be suppressed and made not usable as evidence against any person, corporation, or other taxable entity who or which has requested the adversary hearing in any proceeding wherein the obscenity of said material is essential to establish the guilt of any such person; and

(2) unless the state files a notice with the court within one (1) day, excluding Saturdays, Sundays and legal holidays, stating its intention to appeal the order of the court suppressing the use of the questioned material, immediately return it to the person requesting the adversary hearing and order the dissolution of any temporary restraining order previously entered concerning said materials.

(c) If the state files a notice of appeal in accord with the provision of Section 39-3012 (b) (2), the record of the adversary hearing proceeding shall be filed with the court of appeals within seven (7) days of the entry of the order suppressing use of the questioned material as evidence, excluding Saturdays, Sundays, and legal holidays. Unless the parties elect to proceed without briefs, they must file briefs within ten (10) days, excluding Saturdays, Sundays, and legal holidays, of the entry of the order suppressing use of the questioned material as evidence. Within fifteen (15) days excluding Saturdays, Sundays, and legal holidays, after the filing of the notice of appeal by the state, the court of appeals shall hear oral argument, unless waived by either party, on the sole question as to whether there is probable cause to believe the questioned material is obscene and render its decision within two (2) days after hearing oral argument. If the court of appeals determines that there is necessary probable cause, it shall reverse the order suppressing use of the questioned material as evidence and enter an order in accordance with Section 39-3012 (a). If the court of appeals determines that there is not the necessary probable cause, it shall affirm the order below suppressing use of the questioned material as evidence. There shall be no appeal by either party from a ruling by the court of appeals.

39-3013. If no demand for an adversary hearing is filed in accordance with Section 39-3010, the court which issued the search and seizure warrant and, if applicable, the temporary restraining order, shall, within seventy-two (72) hours, excluding Saturdays, Sundays, and legal holidays, issue an order in accordance with Section 39-3012 (a).

39-3014. Under no circumstances shall law enforcement officers retain possession of items seized by execution of search and seizure warrants beyond fifty-nine (59) calendar days without a criminal proceeding having been instituted by a grand jury unless:

(a) an adversary hearing having been commenced in accordance with Section 39-3011 has not been concluded under which circumstances possession may be retained for twenty-nine (29) calendar days after disposition of such an adversary hearing in some manner other than required by Section 39-3012 (b) (2); and

(b) diligent efforts at the premises where such items were seized fails to find a person willing to claim a possessory interest in the items and sign a written receipt evidencing delivery of the seized items to such person by a duly commissioned law enforcement officer. Under these circumstances, the items shall be destroyed unless they are required to be preserved for a specified period of time by the written request of a prosecutor.

39-3015. Where any defendant in a criminal proceeding has been convicted after trial by jury for violation of the offense of disseminating obscene material in violation of Section 39-3003 or the materials are found to be obscene in accordance with Section 39-3004 (b), the materials thereby found to be obscene shall be deemed forfeited to the State of Tennessee.

39-3016. If one or more copies of the materials found obscene in a criminal trial by jury were used as evidence in the proceeding, one copy of each of the materials shall be retained by the clerk of the court in which the conviction was had and remain the custody of the clerk or an authorized designee of the clerk for use as evidence in any court where the judge of such a court certifies the need for it, for four (4) years from the date of the conviction before being destroyed by the clerk. If more than one copy of such materials is used as evidence, the clerk shall destroy all copies in excess of one (1) of each separate material within five (5) days after the conviction has become final. No materials used as evidence may, in any case, be destroyed prior to the conviction becoming final and a permanent record bearing the signature of three (3) sworn witnesses shall be maintained attesting to what was destroyed, where, when and by what means.

39-3017. All other copies of forfeited obscene materials, commencing the day after the jury verdict adjudging other copies of the same materials obscene, shall be deemed contraband during the ensuing three (3) years. Such materials shall be seized as contraband wherever found within the State of Tennessee if commercially disseminated or possessed with the intent to or for the purpose of commercial dissemination, immediately or in the future, or, if possessed outside the place of residence of the possessor for any purpose in quantities of two (2) or more.

39-3018. Any person in possession of any materials deemed contraband by Section 39-3017 is hereby immunized from any subsequent criminal prosecution under the laws of the State of Tennessee involving the possession or dissemination of that material if:

(a) he voluntarily delivers to the sheriff of the county in which the contraband is located all such contraband within ten (10) calendar days after it is deemed contraband; or

(b) he is the first person after the materials become contraband to supply directly and in person to duly commissioned law enforcement officers accurate information as to the exact place where such contraband is located.

39-3019. Seizure of materials deemed to be contraband by Section 39-3017 shall be made only by duly commissioned law enforcement officers, and upon seizure the seizing law enforcement officers, within forty-eight (48) hours, excluding Saturdays, Sundays, and legal holidays, of the seizure, shall prepare an inventory, attested by at least three (3) witnesses, stating with specificity the description of each item seized and the date, place and time of its seizure. Within this forty-eight (48) hour period, the seizing law enforcement officers shall file with the clerk of the court with jurisdiction over violations of state criminal statutes alleged to have occurred at the place of the seizure, the original of such attested inventory. If the materials are seized by someone other than the sheriff, the officers shall deliver the seized materials to the sheriff of the county in which the seizure occurred. The sheriff shall provide the seizing law enforcement officers with an attested written receipt specifying in detail what was so delivered.

39-3020. Any person with a possessory interest in seized contraband may contest its status as contraband upon the following grounds:

- (a) the material was not disseminated;
- (b) the material was not possessed outside the home with the intent or for the purpose of commercial dissemination;
- (c) the material was not possessed outside the residence of the possessor for any purpose in a quantity of two (2) or more;
- (d) the material does not lack serious artistic, scientific, literary, or political value in the context in which it was found or the manner in which it was being used, possessed, or disseminated, when seized; or
- (e) the seized material is not another or other copies of materials found obscene in accordance with Section 39-3015.

Any person wishing to contest the status of such materials as contraband shall appear in person, at the office of the clerk of the court with jurisdiction over violations of state criminal statutes alleged to have occurred at the place of seizure, within ten (10) calendar days after the seizure by a duly commissioned law enforcement officer. Such person shall file a written statement with the clerk demanding a hearing and stating the ground or grounds upon which the material's status is being contested. The statement shall also contain a sworn attestation as to the nature of the contesting person's possessory interest. The written statement shall not be used as evidence in any future criminal proceeding except for the purpose of impeaching the credibility of a witness or, where necessary, to prove perjury.

39-3021. If demand for a hearing, as specified in Section 39-3020, is made, the court where the demand is filed, shall, within seven (7) calendar days of the filing, assemble a jury, which may not be waived, and conduct an adversary hearing in which the jury will render a verdict beyond a reasonable doubt on the issue or issues raised by the demand.

39-3022. If no demand for a hearing in accordance with Section 39-3020 is made, the original attested inventory of materials seized shall be permanently filed with the clerk of the court where such demand was required to be filed. The sheriff of the county in which the materials were seized shall destroy the materials delivered to him within fifteen (15)

calendar days of their seizure unless such materials are required to be preserved for a specified period of time by the written request of a prosecutor.

39-3023. If in a hearing conducted under the provisions of Section 39-3021, the jury returns a verdict on any of the issues raised by the demand for a hearing in favor of the person demanding the hearing, the seized materials shall be delivered immediately upon the verdict becoming final to that person. If the jury returns a verdict on the issues submitted to them against the person demanding the hearing, the materials shall be destroyed in accordance with Section 39-3022 as if the seizure occurred on the day the verdict becomes final. Either side of the controversy may appeal the jury verdict.

39-3024. Before commencing operation, all regulated businesses, as defined by Section 39-3002(m), must obtain from the secretary of state a certificate of registration for each place of operation. Such certificate shall at all times be posted in a prominent place on the premises of each such business establishment and shall be openly available for inspection by all patrons, provided:

(a) that any business continuously in operation for at least four (4) months prior to the effective date of this act shall not be required to meet location standards before one (1) year from the effective date of this act.

39-3025. The secretary of state shall issue and deliver a certificate of registration authorizing the operation of a regulated business upon being presented with a sworn or attested statement from the applicant that:

(a) all applicable state laws and municipal ordinances concerning the operation of the regulated business in the county and municipality where such regulated business is located have been complied with; and

(b) the regulated business, on the date it opens for operation, shall be physically located and operated inside a totally enclosed building and shall be a distance of greater than twelve hundred (1200) feet from all of the following:

(1) the place of location and operation of any other regulated business;

(2) the nearest boundary line of property upon which is located any education institution or school;

(3) any terminal of a public carrier which transports passengers;

(4) any building used as a place of worship by an organized congregation;

(5) any single or two-family dwelling house in use as places of residence or boarding house unless such residence is located in a commercial area; and

(6) any hotels, motels, inns; and

(7) any existing business selling beverages with alcoholic content for consumption on the premises at which they are sold; and

(c) the regulated business, on the date it opens for operation, is to be physically located and operated at a distance greater than two thousand (2000) feet from the

nearest boundary line of any property in use as a military establishment on a non-temporary basis; and

(d) the regulated business shall not serve, sell for consumption on the premises or allow patrons or others on the premises to possess for consumption on the premises or to consume on the premises any beer, wine, ale, spirits, or any other beverages with any alcoholic content during business hours.

39-3026.(a) The secretary of state shall issue certificates of registration to qualified applicants according to the date and time such applications for registration were filed with him. The certificates shall be issued in order, meaning the person with the earliest filing date shall receive the first certificate and the person with the latest filing date the last.

(b) The secretary of state shall charge a fee of three hundred (\$300) for the issuance or renewal of any certificate of registration to be issued to or renewed by any regulated business as defined by Section 39-3002(m) of this act. Further, the secretary of state shall charge a fee of twenty-five dollars (\$25) for any amendment of filing related to any such certificate of registration issued by it to any regulated business as defined by Section 39-3002(m) of this act.

39-3027. All applications requesting the secretary of state to issue a certificate of registration shall be in writing, sworn or attested, and include:

(a) the names and residential addresses of the owner and, if applicable, the property manager of all real estate and appurtenances thereon where the regulated business is to be operated. If such property is owned or managed by a corporation or other taxable entity, the same information as to all executive officers and members of the board of directors; and

(b) the names, residential and business addresses of all persons who are owners, stockholders, partners, joint venturers, officers, trustees, employees, independent contractors, consultants or any other persons who will share in the division, directly, ultimately, or indirectly, of the gross income resulting from the operation of the regulated business; and

(c) a statement, as to all of the persons whose names are provided in accordance with Section 39-3027 (b) who are domiciled or reside in a county different from that in which the regulated business is to be physically located, giving the name, current business and residential address and telephone number of an natural person within such county who has power of attorney and authorization to accept personal service of both civil and criminal process for any such person as it relates to the operation of the regulated business in question within the county of its location; and

(d) a statement that none of the persons whose names are provided in accordance with Section 39-3027 (b) have ever been convicted of any municipal, state, or federal offense concerning obscene materials or any other laws or ordinances of any municipality, state or the United States for which a penalty of imprisonment for one (1) year or more could have been imposed, irrespective of whether such convictions were ultimately expunged or pardoned.

39-3028 The secretary of state, after the issuance of a certificate of registration authorizing the operation of a regulated business, shall be furnished by the person to whom such certificate has been issued a sworn written statement:

(a) detailing, within three (3) days after their occurrence, any changes which have taken place which makes the information provided in the application for a certificate of registration inaccurate or no longer applicable; and

(b) stating how much money, or the value in kind, has been disbursed during the preceding month to each of the persons whose names were previously provided in accordance with Section 39-3027 (a), (b), and Section 39-3028 (a). Such statement shall be furnished on the first Monday of each month, beginning the month following the month in which operation of the regulated business is commenced.

39-3029 The secretary of state shall:

(a) renew previously issued certificates of registration if written application for renewal is received by him at least forty-five (45) calendar days prior to its expiration date in accordance with Section 39-3029 (b) (4) and it has not been terminated by operation of law prior to forty-five (45) calendar days before such expiration date;

(b) immediately cancel and recall any certificates of registration if:

(1) the supplemental information as required by Section 39-3028 is not timely furnished;

(2) there are any changes in circumstances concerning the facts required to be revealed by Sections 39-3025 (a), 39-3027, and 39-3028(a) concerning the operation of the regulated business which would have prohibited the issuance of the certificate of registration in the first place;

(3) after the issuance of the certificate of registration, any person whose name was furnished in accordance with Section 39-3027 (a), (b) or Section 39-3028 (a), (b) or the regulated business itself is, under any circumstances, convicted of disseminating obscene material in violation of Section 39-3003 or disseminating sexually explicit materials to minors in violation of Section 39-1013, or if any such person or business is convicted of any offense concerning or in connection with the operation of the regulated business; or

(4) after the passage of one (1) year from the date of issuance of the certificate of registration, no application for renewal of such certificate has been filed in accordance with Section 39-3029 (a).

39-3030. A person, corporation or any other taxable entity, irrespective of the absence or presence of an evil motive, bad purpose or intent to violate or disregard the law, is guilty of an offense if he, or it:

(a) knowingly provides or supplies the secretary of state with any false information in connection with obtaining or maintaining a certificate of registration authorizing the operation of a regulated business; or

(b) operates or aids, abets, counsels, procures, or in any other way knowingly assists in the operation of a regulated business which has not first obtained from the secretary of state a certificate of registration authorizing its operation and posted such certificate as required by Section 39-3024.

39-3031. A person, corporation, or any other taxable entity who or which has been adjudged guilty of:

(a) a violation of Section 39-3030 (a) shall be fined an amount not to exceed five thousand dollars (\$5,000) or imprisoned in the state penitentiary for a period of not more than three (3) years, or both;

(b) a violation of Section 39-3030 (b) shall be fined an amount not to exceed five thousand dollars (\$5,000) or imprisoned in the state penitentiary for a period of not more than three (3) years, or both. In addition, such person, corporation, or taxable entity shall be fined an amount not less than two hundred and fifty dollars (\$250) nor more than one thousand dollars (\$1,000) for each day the regulated business is operated in violation of Section 39-3030 (b).

39-3032. It shall be unlawful for any person or persons to communicate to another or to others within this state, by means of telephonic conversation any obscene or lascivious remark, suggestion or proposal manifestly intended to embarrass, disturb, annoy or appeal to the prurient interest of the person to whom such remark, suggestion or proposal is made. It shall also be unlawful for any person or persons to make use of telephone facilities or equipment (1) for an anonymous call or calls, whether or not a conversation ensues, if made or communicated in a manner reasonably to be expected to annoy, abuse, torment, threaten, harass or embarrass one or more persons, or (2) for repeated calls, if such calls are not for a lawful purpose, but are made with intent to abuse, torment, threaten, harass or embarrass one or more persons.

Any person or persons violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof be fined not more than one thousand dollars (\$1,000) and in the discretion of the court shall be confined in the county jail or workhouse for some period of time less than one (1) year.

39-3033. Any contract to be performed in whole or in part in this state which requires any person, firm or corporation to accept, receive, sell, distribute, or purchase any material which is obscene, as defined by Section 39-3002 (c), whether as a condition precedent to other contractual arrangements or otherwise, shall be no defense to any criminal, civil, or injunction suit; and such a contract, to the extent that it may require any person, firm or corporation to accept, receive, sell, distribute, or purchase any material which is obscene, is hereby declared to be against public policy and unenforceable.

39-3034. (a). The circuit, chancery, or criminal courts of this state and the chancellors and judges thereof shall have full power, authority, and jurisdiction, upon application by sworn detailed petition filed by the district attorney general within their respective jurisdictions, to issue any and all proper temporary restraining orders, temporary and permanent injunctions, and any other writs and processes appropriate to carry out and enforce the provisions of Sections 39-3001 - 39-3037. However, this section shall not be construed to authorize the issuance of ex parte temporary injunctions preventing further

regularly scheduled exhibition of motion picture films by commercial theaters, such injunction to issue only upon at least on (1) day's notice, but the court may immediately forbid the removing, destroying, deleting, splicing, amending or otherwise altering the matter alleged to be obscene. The person or persons to be enjoined shall be entitled to trial of the issues within two (2) days after joinder of issue and a decision shall be rendered by the court within two (2) days of the conclusion of the trial. In order to facilitate the introduction of evidence at any hearing as provided herein, the court is hereby empowered to produce one (1) copy of the matter alleged to be obscene, along with the necessary viewing equipment, in open court at the time of the hearing or at any other time agreed upon by the parties and the court. In proceedings under this section there shall be no right to trial by jury. If the defendant in any suit for injunction filed under the terms of this section shall fail to answer or otherwise join issue within twenty (20) days after the filing of a petition for injunction, the court, on motion of the district attorney general, shall enter a general denial for the defendant, and set a date for hearing on the questions raised in the petition for injunction within ten (10) days following the entry of the denial entered by the court and the court shall render its decision within two (2) days after the conclusion of that hearing.

(b) In the event that a final order or judgement of injunction be entered against the person sought to be enjoined, such final order or judgement shall contain a provision directing the person to surrender to the clerk of the court of the county in which the proceedings were brought any of the obscene matter in his possession and such clerk shall be directed to hold said matter in his possession to be used as evidence in any criminal proceedings in which said matter is in issue but if no indictment is returned concerning said matter within six (6) months of the entry of said final order, the said clerk shall destroy said matter.

(c) The review of any final decree, order or judgement shall be by broad appeal direct to the Supreme Court. Any party, including the district attorney general, shall be entitled to an appeal from an adverse decision of the court. The granting of an appeal shall have the effect of staying or suspending any order to destroy but not an order to seize such matter, nor shall the granting of an appeal suspend any permanent injunction granted by the trial court.

39-3035. Neither the state nor the district attorney general shall be required to file any injunction, cost or appeal bond or to pay any costs or service or process fees in actions filed under the provisions of this act.

39-3036. The provisions of this act shall take precedence over the Tennessee Rules of Civil Procedure when there is any conflict between such rules and this act.

39-3037. Each theater at which two (2) or more motion pictures are shown in the same building shall maintain adequate supervision of the customers to prevent minors from purchasing a ticket or admission pass to a motion picture designated by the rating board of the Motion Picture Association of America by the letter "G" for general audiences or "GP" for all ages, parental guidance advised, and then viewing a motion picture designated "R" for restricted audiences, persons under eighteen (18) not admitted unless accompanied by parent or adult guardian or "X" persons under eighteen (18) not admitted.

SECTION 3. Tennessee Code Annotated, Section 39-1012, is amended by deleting the section in its entirety and substituting instead existing Section 39-1019, concerning the penalty and procedure for child abuse and neglect.

SECTION 4. Tennessee Code Annotated, Title 39, Chapter 10, is amended by deleting from the chapter Sections 39-1013, 39-1014, 39-1015, 39-1016, 39-1017, 39-1018, and 39-1020 in their entirety and substituting instead the following:

39-1013. A person not acting as an agent of a non-taxable entity, or any corporation or other taxable entity with knowledge of the general nature and character of the content of material involved, irrespective of the absence or presence of an evil motive, bad purpose or intent to violate or disregard the law, is guilty of an offense if he, or it disseminates to or in any way that a person under eighteen (18) years of age may have displayed, be exposed or have access to:

Non-obscene materials or any type of non-obscene performance which sets forth in detail, as defined in Section 39-3002 (p), sexual conduct depicted in a patently offensive way as described and defined in Section 39-3002 (1).

39-1014. The provisions of Section 39-1013 shall not be construed to hold persons, corporations or other taxable entities criminally liable for a dissemination of the materials described if:

(a) the person, corporation or other taxable entity who or which is the parent or legal guardian in loco parentis disseminates the material specifically, and only, to their child or ward under eighteen (18) years of age; or

(b) the described material is disseminated as part of the textual materials used in connection with a particular course of study presented by a non-public educational institution created and existing for the purpose of educating enrolled students for either religious or secular training, provided:

(1) that a parent or legal guardian standing in loco parentis to the person under eighteen (18) years of age has, prior to such dissemination, been advised in writing and in detail of the precise content of the materials to be disseminated and has provided in writing consent to allow the described materials to be disseminated in the manner described; and

(2) that the parent or legal guardian standing in loco parentis to the person under eighteen (18) years of age, upon being notified in accordance with Section 39-1014 (b) (1), may withhold the required consent without incurring any penalty, financial or otherwise, to themselves or the person to whom the dissemination is to be made.

(c) the prohibited materials are disseminated as a part of the textual materials used in connection with a particular course of study presented by a public educational institution created and existing for the purpose of educating enrolled students, provided:

(1) that the ultimate governing body of such institution has specifically approved, as a matter of public record, use of the specific prohibited material in the

manner in which it is disseminated on the premise of the institution, after advising in writing and in detail a parent or legal guardian standing in loco parentis to each person under eighteen (18) years to whom the dissemination is intended to be made of the precise content of the materials and the date, time and place when and where such dissemination will be made; and

(2) that the approval by the ultimate governing body of public educational institutions as required by Section 39-1014 (c) (1), shall be issued only after conducting open hearings in the municipality or county where the involved institutions are located. The public shall be invited to such hearings for the purpose of addressing the ultimate governing body as to whether such approval should be granted. The public hearings shall be conducted on at least two (2) separate occasions, the last of which shall be held no less than three (3) weeks prior to the first dissemination of prohibited material; and

(3) that if approval is granted by the ultimate governing body according to the provisions of Section 39-1014 (c) (1) and (c) (2), such approval shall terminate by operation of law one (1) year from the date of its issuance, unless rescinded by the body prior thereto.

39-1015. Prosecutions, trials and appeals in connection with the offense of disseminating sexually explicit materials to minors in violation of Section 39-1013 shall be expeditiously concluded according to the provisions of Section 39-3004.

39-1016. A person, corporation, or any other taxable entity, who or which has been adjudged guilty of the offense of disseminating sexually explicit materials to minors in violation of Section 39-1013 shall be punished according to the provisions of Section 39-3005.

39-1017. No person, firm, corporation or association shall show or display, on a motion picture screen in any theater open to the general public for which an admission price is charged, any preview, abstract, trailer or advertisement of any motion picture film which carries a rating indicating that persons under the age of eighteen (18) years will not be admitted or that parental permission is required or recommended, either within thirty (30) minutes before or thirty (30) minutes after showing a film which carries a rating indicating that any person may be admitted without regard to age or parental supervision, guidance or consultation. Violation of this section shall constitute a misdemeanor punishable by a fine or not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500). Each and every separate act of showing or displaying such motion picture film shall constitute a violation.

39-1018. It is a misdemeanor to display, cause, or permit to be displayed for sale in any grocery, market, store, drug store, or similar place, except a bookstore where persons under eighteen (18) years of age are not admitted, any magazine, book or newspaper containing stories, articles or pictures, or other material, containing depictions or representations described in Section 39-1013, at a height less than five and one half (5 1/2) feet above the floor. Each such magazine, or book or newspaper displayed in violation of this section shall constitute a separate offense. Each violation of this section is punishable upon conviction, by a fine of fifty dollars (\$50.00).

39-1019. (a) It shall be a felony, punishable by imprisonment for not less than three (3) years nor more than twenty-one (21) years and a fine of not more than ten thousand dollars (\$10,000), for any person:

(1) to knowingly promote, employ, use or permit a minor to engage in or assist others to engage in: (a) posing or modeling alone or with others in any performance of sexual conduct for purposes of preparing a film, photograph, negative slide or motion picture or other depiction or representation; (b) sexual conduct by the minor alone or with other persons or animals; or (c) promoting the dissemination of any material which depicts any minors, posing alone or with others, engaging in any sexual conduct if said depiction is obscene.

(2) who, with knowledge that a person is a minor, or who, while in possession of such facts that he should reasonably know that such person is a minor, hires, employs, solicits, entices, or uses a minor to do or assist in doing any of the acts described in subdivision (a) of this subsection.

(b) As used in Section 39-1019:

(1) "Minor" means any person who has not reached the age of eighteen (18) years.

(2) "Person" as used in this section shall include the singular and the plural and shall mean and include any individual, firm, partnership, co-partnership, association, corporation, or other organization or other legal entity, or any agent or servant thereof.

(3) "Promote" shall mean to produce, direct, manufacture, issue, sell, lend, mail, publish, exhibit, display, trade, or swap.

(4) "Knowingly" as used in Section 39-1019 (a) (1) means having actual or constructive knowledge of the subject matter. A person shall be deemed to have constructive knowledge of the contents if he has knowledge of facts which would put a reasonable and prudent man on notice as to the suspect nature of the material.

(5) "Sexual conduct" as used in Section 39-1019 (1) (b) and (c) means that type of conduct described in Section 39-1013.

SECTION 5. Tennessee Code Annotated, Section 40-2703, is amended by adding the following sentence to the end of the section:

Provided, however, the provision of this section shall not apply to the Tennessee Obscenity Act of 1978.

SECTION 6. The attorney general and reporter shall, upon request by a district attorney general, provide assistance in the preparation and trial of cases under the provisions of this act.

SECTION 7. If any provision, clause, sentence, paragraph, section, phrase or part of this act, or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect any other provision, clause, sentence, paragraph, section, phrase, part or application of this act which can be given effect without the invalid provision, clause, sentence, paragraph, section, phrase, part or application. To this end the provisions, clauses, sentences, paragraphs, sections, phrases and parts of this act are declared to be severable.

SECTION 8. This act shall take effect thirty (30) days after its enactment, the public welfare requiring it.

Mr. Scruggs moved to amend Amendment No. 1 as follows:

AMENDMENT NO. 1 TO AMENDMENT NO. 1

Amend Amendment No. 1 by inserting between the words "non-public" and "educational" in subsection (b) of Section 39-1014 of the amendatory language of Section 4 the words "or public".

AND FURTHER AMEND by deleting the word and punctuation mark "provided:" in subsection (c) of Section 39-1014 of the amendatory language of Section 4 and substituting instead the following:

following either the procedure described in the preceding subsection 39-1014 (b) or provided:

AND FURTHER AMEND by deleting subparagraph (2) of subsection (c) of Section 39-1014 of the amendatory language of Section 4 in its entirety and substituting instead the following:

(2) that the approval by the ultimate governing body of public educational institutions as required by Section 39-1014 (c) (1), shall be issued only after conducting an open meeting in accordance with the provisions of Tennessee Code Annotated, Title 8, Chapter 44, in the municipality or county where the involved institutions are located.

AND FURTHER AMEND by deleting from subparagraph (3) of subsection (c) of Section 39-1014 of the amendatory language of Section 4 the words "by operation of law one (1) year from the date of its issuance, unless rescinded by the body prior thereto" and substituting instead the words "upon a petition of any five (5) persons one (1) year thereafter or upon rescission by the body prior thereto".

On motion, Amendment No. 1 to Amendment No. 1 was adopted.

Mr. Scruggs moved to amend Amendment No. 1 as follows:

AMENDMENT NO. 2 TO AMENDMENT NO. 1

Amend Amendment No. 1 as follows:

In Section 2 at 39-3002 (m) by inserting after the words "used in Section 39-3002 (1); provided..." and before the words "more than thirty percent (30%)" the following:

"that an enterprise is excluded from the provisions of this section if..."

On motion, Amendment No. 2 to Amendment No. 1 was adopted.

Mr. Scruggs moved to amend Amendment No. 1 as follows:

AMENDMENT NO. 3 TO AMENDMENT NO. 1

Amend Amendment No. 1 by changing the period at the end of Section 39-3005 (e) to a comma, and adding the following words thereto:

"unless such person provides the district attorney or his designee with a sworn statement and, if requested by the district attorney, at trial gives truthful testimony as to the identity of

the natural person from whom the questioned materials were received and all of the circumstances surrounding the receipt of them in which case he shall be immunized from further prosecution for the conduct in question and any other conduct concerning which relevant testimony is given to the issue at hand."

On motion, Amendment No. 3 to Amendment No. 1 was adopted.

Mr. Ashford moved to amend Amendment No. 1 as follows:

AMENDMENT NO. 4 TO AMENDMENT NO. 1

Amend Amendment No. 1 by inserting in Section 39-3032 of the amendatory language of Section 4, between the words "person or persons" and the words "to communicate", the following words " , except consenting adults,".

On motion, Amendment No. 4 to Amendment No. 1 was adopted.

Mr. Rhinehart moved the previous question on Amendment No. 1, which motion prevailed by the following vote:

Ayes.....	84
Noes.....	6
Present and not voting	1

Representatives voting aye were: Ashford, Atchley, Bell, Bewley, Bishop, Bissell, Blackburn, Bragg, Burks, Burleson, Burnett (Fentress), Burnett (Sumner), Bussart, Butler, Byrd, Carter, Chiles, Clark, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DeBerry, DePriest, Dixon, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Fuqua, Gaia, Gill, Good, Hall, Henry, Hillis, Hood, Hurley, Jensen, Johnson, King, Lanier, Lashlee, Ledford, Longley, Love, McAfee, McKinney, Miller, Moore, Murray (Franklin), Murray (Madison), Naifeh, Nolan, Phillips, Pruitt, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Shockley, Small, Smith, Stafford, Stallings, Starnes, Steinhauer, Sterling, Tanner, Turner, Wallace, Watson, Webb, Williams, Wolfe, Wood, Work, Yelton and Young — 84.

Representatives voting no were: Brewer, Buck, Cawood, Cobb, Ozment and Spence — 6.

Representative present and not voting was: Mr. Speaker McWherter — 1.

Thereupon, Amendment No. 1, as amended, was adopted.

Mr. Clark moved the previous question, which motion prevailed by the following vote:

Ayes.....	73
Noes.....	21
Present and not voting	2

Representatives voting aye were: Atchley, Bell, Bewley, Bishop, Bissell, Blackburn, Bragg, Buck, Burleson, Burnett (Fentress), Burnett (Sumner), Butler, Byrd, Carter, Chiles, Clark, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Fuqua, Gaia, Gill, Good, Hall, Henry, Hillis, Hood, Hurley, Jensen, Johnson, Lanier, Lashlee, Longley, Love, McAfee, Martin, Miller, Moore, Murray (Madison), Naifeh, Phillips,

Pickering, Pruitt, Rhinehart, Richards, Richardson, Robinson (Davidson), Robinson (Washington), Scruggs, Shockley, Small, Smith, Stafford, Stallings, Starnes, Sterling, Tanner, Turner, Wallace, Watson, Webb, Williams, Wolfe, Wood, Work, Yelton and Young — 73.

Representatives voting no were: Ashford, Brewer, Burks, Cawood, Cobb, Copeland, DeBerry, Dixon, Ford (Shelby), Kernell, King, Ledford, McKinney, Murphy (Shelby), Murray (Franklin), Nolan, Ozment, Robertson, Robinson (Hamilton), Spence and Steinhauer — 21.

Representatives present and not voting were: Bussart and Mr. Speaker McWherter — 2.

Thereupon, House Bill No. 2021, as amended, passed its third and final reading by the following vote:

Ayes.....	94
Noes.....	2
Present and not voting	2

Representatives voting aye were: Atchley, Bell, Bewley, Bishop, Bissell, Blackburn, Bragg, Brewer, Buck, Burks, Burleson, Burnett (Fentress), Burnett (Sumner), Bussart, Butler, Byrd, Carter, Cawood, Chiles, Clark, Copeland, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DeBerry, DePriest, Dixon, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Fuqua, Gaia, Gill, Good, Hall, Henry, Hillis, Hood, Hurley, Jensen, Johnson, Kernell, King, Lanier, Lashlee, Ledford, Longley, Love, McAfee, McKinney, Martin, Miller, Moore, Murphy (Davidson), Murray (Franklin), Murray (Madison), Naifeh, Nolan, Ozment, Phillips, Pickering, Pruitt, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Shockley, Small, Smith, Stafford, Stallings, Starnes, Steinhauer, Sterling, Tanner, Turner, Wallace, Watson, Webb, Williams, Wolfe, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 94.

Representatives voting no were: Cobb and Spence — 2.

Representatives present and not voting were: Murphy (Shelby) and Withers — 2.

A motion to reconsider was tabled.

House Bill No. 1864 — To amend Section 39-3014, Code.

Mr. Spence moved that House Bill No. 1864 be passed on third and final reading.

Mr. Murphy (Shelby) moved to amend as follows:

AMENDMENT NO. 1

Amend House Bill No. 1864 by inserting between the word "court" and the punctuation mark and words ", or any judge" in the second sentence of subsection (1) of Section 1 of the bill the words "if such judge is licensed to practice law in the State of Tennessee".

On motion, the amendment was adopted.

Mr. Smith moved that House Bill No. 1864 be placed on the Calendar for Thursday, March 23, 1978.

Mr. Spence moved that the motion be tabled, which motion failed by the following vote:

Ayes.....	55
Noes.....	29
Present and not voting	2

Representatives voting aye were: Atchley, Bewley, Bishop, Blackburn, Burks, Burleson, Burnett (Sumner), Butler, Carter, Chiles, Copeland, Darnell, Elkins, Ellis, Fleming, Ford (Cocke), Fuqua, Good, Hall, Henry, Hood, Hurley, Jensen, Lanier, Lashlee, Ledford, Love, McAfee, Martin, Miller, Murray (Franklin), Murray (Madison), Naifeh, Pickering, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Washington), Scruggs, Shockley, Small, Smith, Stafford, Stallings, Tanner, Turner, Wallace, Webb, Williams, Wolfe, Wood, Yelton and Mr. Speaker McWherter — 55.

Representatives voting no were: Bell, Bissell, Bragg, Brewer, Buck, Burnett (Fentress), Bussart, Byrd, Cawood, Clark, Cobb, Davidson (Robertson), Davis, DeBerry, DePriest, Ford (Shelby), Gaia, Johnson, King, McKinney, Murphy (Shelby), Nolan, Ozment, Phillips, Robinson (Hamilton), Spence, Steinhauer, Withers and Work — 29.

Representatives present and not voting were: Hillis and Watson — 2.

Mr. Carter moved that House Bill No. 1864 be re-referred to the Committee on Calendar and Rules.

Mr. McKinney moved that the motion be tabled, which motion failed by the following vote:

Ayes.....	44
Noes.....	45
Present and not voting	1

Representatives voting aye were: Ashford, Bell, Bissell, Blackburn, Bragg, Brewer, Buck, Burks, Burnett (Fentress), Bussart, Byrd, Cawood, Clark, Cobb, Darnell, Davidson (Robertson), Davis, DeBerry, DePriest, Dixon, Ellis, Fleming, Ford (Shelby), Gaia, Hood, King, Ledford, Love, McKinney, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Nolan, Ozment, Phillips, Rhinehart, Spence, Steinhauer, Wallace, Watson, Withers, Work, Yelton and Young — 44.

Representatives voting no were: Atchley, Bewley, Bishop, Burleson, Burnett (Sumner), Butler, Carter, Chiles, Copeland, Elkins, Fisher, Ford (Cocke), Fuqua, Good, Hall, Henry, Hillis, Hurley, Jensen, Johnson, Lanier, Lashlee, McAfee, Martin, Miller, Murray (Madison), Naifeh, Pickering, Richards, Richardson, Robertson, Robinson (Hamilton), Robinson (Washington), Scruggs, Shockley, Small, Smith, Stafford, Stallings, Tanner, Turner, Webb, Williams, Wolfe and Wood — 45.

Representative present and not voting was: Mr. Speaker McWherter — 1.

Thereupon, the motion to re-refer was withdrawn.

On motion of Mr. Spence, House Bill No. 1864 was moved three places down on today's Calendar.

House Bill No. 2226 — To authorize indemnity agreement, Southern Railway and Memphis State University.

On motion, House Bill No. 2226 was made to conform with Senate Bill No. 1956.

On motion, Senate Bill No. 1956, on same subject, was substituted for House Bill No. 2226.

Mr. Martin moved that Senate Bill No. 1956 be passed on third and final reading.

Mr. Bragg moved to amend as follows:

AMENDMENT NO. 1

Amend Senate Bill No. 1956 by deleting the language of Section 1 in its entirety and substituting instead the following:

Subject to approval by the State Board of Regents, the Attorney General and the Commissioner of Finance and Administration, Memphis State University is hereby authorized to enter into an indemnity agreement with the Southern Railway in connection with the construction of a pedestrian underpass by the University under the right-of-way and tracks of the railroad, pursuant to which the State of Tennessee will indemnify and hold harmless the railroad against liability for all claims or causes of action for bodily injury or property damage arising from or in connection with the construction, maintenance, or use of the underpass for a maximum of \$1,000,000 per occurrence, with any payments thereof to be made from funds appropriated to Memphis State University.

On motion, the amendment was adopted.

Thereupon, Senate Bill No. 1956, as amended, passed its third and final reading by the following vote:

Ayes.....	94
Noes.....	0

Representatives voting aye were: Ashford, Atchley, Bell, Bewley, Bishop, Bissell, Blackburn, Bragg, Brewer, Buck, Burks, Burleson, Burnett (Fentress), Burnett (Sumner), Bussart, Butler, Byrd, Cawood, Chiles, Clark, Cobb, Copeland, Darnell, Davidson (Robertson), Davis, DeBerry, DePriest, Dixon, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Fuqua, Gaia, Gill, Good, Hall, Henry, Hillis, Hood, Hurley, Jensen, Johnson, Kernell, King, Lanier, Lashlee, Ledford, Longley, Love, McKinney, Martin, Miller, Moore, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Murray (Madison), Naifeh, Nolan, Ozment, Phillips, Pickering, Pruitt, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Shockley, Small, Smith, Spence, Stafford, Stallings, Starnes, Steinhauer, Tanner, Turner, Wallace, Watson, Webb, Williams, Withers, Wolfe, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 94.

A motion to reconsider was tabled.

House Bill No. 1927 — To amend Section 67-3102, Code.

Mr. McKinney moved that House Bill No. 1927 be passed on third and final reading.

Mr. Bragg moved to amend as follows:

AMENDMENT NO. 1

Amend House Bill No. 1927 by adding at the end of Section 1 the following:

Tennessee Code Annotated, Section 67-3102, is further amended by adding the following sentence after the first sentence thereof:

If within two (2) years from the effective date of this act, the rate of four (4) mills on each cigarette is not sufficient to generate the revenue received under the previous six and one-half (6½) mills on each cigarette, then the rate to be charged on each cigarette shall revert to six and one-half (6½) mills on each cigarette.

On motion, the amendment was adopted.

Mr. Rhinehart moved that House Bill No. 1927 be referred to the Committee on Agriculture.

Mr. McKinney moved that the motion be tabled, which motion prevailed by the following vote:

Ayes.....	59
Noes.....	27
Present and not voting	3

Representatives voting aye were: Atchley, Bell, Bewley, Blackburn, Brewer, Buck, Burleson, Burnett (Sumner), Bussart, Butler, Byrd, Clark, Darnell, Davidson (Robertson), Davidson (Wayne), Dixon, Fisher, Ford (Cocke), Ford (Shelby), Gill, Good, Henry, Hillis, Hood, Hurley, Johnson, Lanier, Longley, Love, McAfee, McKinney, Miller, Moore, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Murray (Madison), Nolan, Ozment, Phillips, Pickering, Pruitt, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Shockley, Smith, Spence, Stallings, Steinhauer, Tanner, Webb, Withers, Yelton and Young — 59.

Representatives voting no were: Bishop, Bissell, Burks, Cawood, Chiles, Cobb, Copeland, Davis, DePriest, Elkins, Ellis, Fleming, Fuqua, Gaia, Hall, Jensen, Lashlee, Ledford, Martin, Rhinehart, Stafford, Starnes, Williams, Wolfe, Wood, Work and Mr. Speaker McWherter — 27.

Representatives present and not voting were: Naifeh, Turner and Wallace — 3.

Mr. Copeland moved to amend as follows:

AMENDMENT NO. 2.

Amend House Bill No. 1927 by adding a new section to read:

"The reduction in the cigarette tax shall be reflected in the consumer purchase price".

On motion, the amendment was adopted.

Thereupon, House Bill No. 1927, as amended, passed its third and final reading by the following vote:

Ayes.....	54
Noes.....	33
Present and not voting	9

Representatives voting aye were: Atchley, Bell, Bewley, Bishop, Blackburn, Buck, Burleson, Butler, Byrd, Clark, Copeland, Darnell, Davidson (Robertson), DeBerry, DePriest, Dixon, Elkins, Ellis, Fisher, Ford (Cocke), Ford (Shelby), Gill, Good, Hall, Henry, Hillis, Hood, Hurley, Johnson, King, Lanier, Love, McKinney, Moore, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Ozment, Pickering, Pruitt, Richards, Richardson, Robertson, Robinson (Hamilton), Robinson (Washington), Scruggs, Shockley, Smith, Spence, Stallings, Steinhauer, Webb, Withers and Young — 54.

Representatives voting no were: Ashford, Bissell, Bragg, Burnett (Fentress), Carter, Cawood, Chiles, Cobb, Davis, Fleming, Fuqua, Gaia, Jensen, Kernell, Lashlee, Ledford, Longley, Martin, Murray (Madison), Nolan, Rhinehart, Small, Stafford, Starnes, Tanner, Turner, Wallace, Watson, Williams, Wolfe, Wood, Work and Mr. Speaker McWherter — 33.

Representatives present and not voting were: Burks, Bussart, Davidson (Wayne), McAfee, Miller, Naifeh, Phillips, Sterling and Yelton — 9.

A motion to reconsider was tabled.

EXPLANATION OF VOTE

Mr. Speaker:

My reason for a Roll Call vote on HB 1927 is to remove any question of a conflict of interest.

JIMMY NAIFEH

Mr. Ellis asked to be recorded as changing his vote from "aye" to "no" on House Bill No. 1927.

Mr. Bishop asked to be recorded as changing his vote from "aye" to "no" on House Bill No. 1927.

Mr. Byrd asked to be recorded as changing his vote from "aye" to "present and not voting" on House Bill No. 1927.

Mr. King asked to be recorded as "present and not voting" on House Bill No. 2021.

House Bill No. 2301 — To amend Section 59-1711, Code.

Mr. McKinney moved that House Bill No. 2301 be passed on third and final reading.

Mr. McKinney moved to amend as follows:

AMENDMENT NO. 1

Amend House Bill No. 2301 by deleting Section 1 in its entirety and by substituting in lieu thereof the following:

"Tennessee Code Annotated, Section 59-1711 is amended by deleting sub-section (d) in its entirety and substituting in lieu thereof the following sub-section (d);

"(d) All licenses issued pursuant to the provisions of this chapter to manufacturers, distributors, factory branches, distributor branches, factory representatives, distributor representatives and auctions shall expire on June 30th following the date of issuance. All licenses issued pursuant to the provisions of this chapter to automotive dismantlers and recyclers shall expire on December 31st following the date of issuance."

To amend Section 2 by deleting the word "date" as it appears in this section and substituting in its stead the word "dates".

On motion, the amendment was adopted.

Thereupon, House Bill No. 2301, as amended, passed its third and final reading by the following vote:

Ayes.....	95
Noes.....	0

Representatives voting aye were: Ashford, Atchley, Bell, Bewley, Bishop, Bissell, Blackburn, Bragg, Brewer, Burks, Burleson, Burnett (Fentress), Burnett (Sumner), Bussart, Butler, Byrd, Cawood, Chiles, Clark, Cobb, Copeland, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DeBerry, DePriest, Dixon, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Fuqua, Gaia, Gill, Good, Hall, Henry, Hillis, Hood, Hurley, Jensen, Johnson, Kernell, Lanier, Lashlee, Ledford, Longley, Love, McAfee, McKinney, Miller, Moore, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Murray (Madison), Naifeh, Nolan, Ozment, Phillips, Pickering, Pruitt, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Shockley, Small, Smith, Spence, Stafford, Stallings, Starnes, Steinhauer, Sterling, Tanner, Turner, Wallace, Watson, Webb, Williams, Withers, Wolfe, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 95.

A motion to reconsider was tabled.

Mr. Spence moved that House Bill No. 1864 be placed on the Calendar for Thursday, March 23, 1978, which motion prevailed.

House Bill No. 395 — To make provisions, retirement allowances, retired teachers, general employees.

Mr. McKinney moved that House Bill No. 395 be passed on third and final reading.

Mr. Bragg moved to amend as follows:

AMENDMENT NO. 1

Amend House Bill No. 395 by deleting the existing Section 1 and substituting the following in lieu thereof:

Any state teacher or state general employee who is receiving a full service retirement benefit in accordance with the provisions of Tennessee Code Annotated, Section 8-3905 or Tennessee Code Annotated, Section 8-3935 shall receive an additional monthly allowance

upon meeting all of the requirements of the act. These requirements are:

1. The retiree must have at least fifteen (15) years of creditable service and have been a full-time state teacher or government state employee at the time of retirement.

2. The retiree's gross annual retirement income may not exceed \$200 for each year of creditable service in the Tennessee Consolidated Retirement System. Provided that if the retiree is less than age sixty-two (62), the amount which the retiree will receive from social security at age sixty-two (62) will be included in determining whether this income requirement is satisfied. This allowance shall be equal to five percent (5%) of the retiree's benefit for the month preceeding the date of the increase. Any eligible retiree shall receive this increase on the next January 1 or July 1 following his retirement or following the effective date of this act, provided the member has been retired for at least six (6) months on that day and he meets these requirements on that day. A retiree shall be eligible for one (1) review under this act and only one (1) increase under its provisions.

AND FURTHER AMEND, by deleting the words "on July 1, 1977" in Section 4 and substituting in lieu thereof the words "on June 30, 1978".

On motion, the amendment was adopted.

Messrs. Atchley, Webb, Watson, Scruggs, Davis, Starnes, Hall, Smith, Good, Blackburn, Ford (Cocke), Robertson, Wood, Richards, Elkins, Carter, Shockley, Hurley, McAfee, Jensen, Miller, Nolan and Hood asked to be recorded as voting "no" on the adoption of Amendment No. 1 to House Bill No. 395.

Thereupon, House Bill No. 395, as amended, passed its third and final reading by the following vote:

Ayes.....	97
Noes.....	0

Representatives voting aye were: Ashford, Atchley, Bell, Bewley, Bishop, Bissell, Blackburn, Bragg, Brewer, Buck, Burks, Burleson, Burnett (Fentress), Burnett (Sumner), Bussart, Butler, Byrd, Carter, Cawood, Chiles, Clark, Cobb, Copeland, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DeBerry, DePriest, Dixon, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Fuqua, Gaia, Gill, Good, Hall, Henry, Hillis, Hood, Hurley, Jensen, Johnson, Kernell, Lanier, Lashlee, Ledford, Longley, Love, McAfee, McKinney, Martin, Miller, Moore, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Murray (Madison), Naifeh, Nolan, Ozment, Phillips, Pickering, Pruitt, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Shockley, Small, Smith, Spence, Stafford, Stallings, Starnes, Steinhauer, Sterling, Tanner, Turner, Wallace, Watson, Webb, Williams, Withers, Wolfe, Wood, Work, Yelton and Mr. Speaker McWherter — 97.

A motion to reconsider was tabled.

House Bill No. 2090 — To amend Section 2-611, Code.

On motion, House Bill No. 2090 was made to conform with Senate Bill No. 1948.

On motion, Senate Bill No. 1948, on same subject, was substituted for House Bill No. 2090.

Mr. Steinhauer moved that Senate Bill No. 1948 be passed on third and final reading.

Mr. Bishop moved to amend as follows:

AMENDMENT NO. 1

Amend Senate Bill No. 1948 be deleting Section 1 in its entirety and substituting in lieu thereof a new Section:

"Section 1. Tennessee Code Annotated, Section 2-611, is amended by deleting the words and symbols 'forty (40)', and substituting in lieu thereof the words and symbols, 'ninety (90)'."

On motion, the amendment was adopted.

Mr. Buck moved to amend as follows:

AMENDMENT NO. 2

Amend Senate Bill No. 1948 in Section 1 by changing the period at the end of sentence to a comma and by adding the following:

and substituting the words and figures "not more than 60 and".

Mr. Burnett (Sumner) moved that Amendment No. 2 be tabled, which motion prevailed by the following vote:

Ayes.....	49
Noes.....	24
Present and not voting	3

Representatives voting aye were: Bell, Bishop, Bissell, Blackburn, Burks, Burnett (Fentress), Burnett (Sumner), Butler, Chiles, Clark, Cobb, Darnell, Davidson (Robertson), Davis, DeBerry, DePriest, Ellis, Fleming, Ford (Shelby), Gaia, Hall, Hillis, Hurley, Lanier, Ledford, Love, McKinney, Martin, Miller, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Naifeh, Ozment, Pruitt, Rhinehart, Richards, Robinson (Davidson), Scruggs, Shockley, Spence, Steinhauer, Tanner, Williams, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 49.

Representatives voting no were: Ashford, Atchley, Buck, Bussart, Cawood, Davidson (Wayne), Dixon, Fisher, Ford (Cocke), Gill, Good, Henry, Lashlee, Phillips, Robertson, Robinson (Washington), Small, Smith, Stafford, Stallings, Wallace, Watson, Webb and Wolfe — 24.

Representatives present and not voting were: Byrd, Johnson and Richardson — 3.

Thereupon, Senate Bill No. 1948, as amended, failed to receive a constitutional majority by the following vote:

Ayes.....	46
Noes.....	45

Representatives voting aye were: Bissell, Blackburn, Bragg, Brewer, Burnett (Fentress), Burnett (Sumner), Bussart, Chiles, Clark, Cobb, Copeland, Darnell, Davidson (Robertson), Davis, DeBerry, DePriest, Fleming, Ford (Shelby), Gaia, Hall, Hillis, Hood, Johnson, Kernell,

King, Lanier, Ledford, Love, McKinney, Miller, Murphy (Davidson), Murphy (Shelby), Naifeh, Nolan, Ozment, Richardson, Robinson (Davidson), Robinson (Hamilton), Scruggs, Spence, Steinhauer, Tanner, Withers, Work, Yelton and Mr. Speaker McWherter — 46.

Representatives voting no were: Ashford, Atchley, Bewley, Bishop, Buck, Burks, Burleson, Butler, Byrd, Carter, Cawood, Davidson (Wayne), Dixon, Elkins, Fisher, Ford (Cocke), Fuqua, Gill, Good, Henry, Hurley, Jensen, Lashlee, Longley, McAfee, Martin, Murray (Franklin), Murray (Madison), Phillips, Rhinehart, Richards, Robertson, Shockley, Small, Stafford, Starnes, Sterling, Turner, Wallace, Watson, Webb, Williams, Wolfe, Wood and Young — 45.

Under the rules, Senate Bill No. 1948 was re-referred to the Committee on Calendar and Rules.

Mr. Speaker McWherter relinquished the Chair to Mr. Brewer, Speaker pro tem.

Mr. Stallings asked to be recorded as voting no on Senate Bill No. 1948.

House Bill No. 1604 — To amend Section 6-317, Code.

On motion, House Bill No. 1604 was made to conform with Senate Bill No. 1531.

On motion, Senate Bill No. 1531, on same subject, was substituted for House Bill No. 1604.

Mr. Henry moved that Senate Bill No. 1531 be passed on third and final reading, which motion prevailed by the following vote:

Ayes.....	77
Noes.....	8
Present and not voting	4

Representatives voting aye were: Atchley, Bell, Bewley, Bishop, Blackburn, Bragg, Buck, Burks, Burleson, Burnett (Fentress), Bussart, Butler, Carter, Cawood, Clark, Copeland, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DePriest, Elkins, Fisher, Ford (Cocke), Ford (Shelby), Fuqua, Good, Hall, Hillis, Hood, Hurley, Johnson, Kernell, King, Lanier, Lashlee, Ledford, Love, McAfee, Martin, Miller, Murphy (Shelby), Murray (Franklin), Murray (Madison), Naifeh, Nolan, Phillips, Pruitt, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Shockley, Small, Smith, Spence, Stafford, Stallings, Starnes, Steinhauer, Sterling, Tanner, Turner, Wallace, Watson, Webb, Williams, Wolfe, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 77.

Representatives voting no were: Ashford, Brewer, Byrd, DeBerry, Ellis, Jensen, McKinney and Withers — 8.

Representatives present and not voting were: Chiles, Cobb, Gill and Ozment — 4.

A motion to reconsider was tabled.

EXPLANATION OF VOTE

Mr. Speaker, I did not vote on House Bill No. 2021 because I feel that the bill did not receive adequate consideration on the floor of the House. It was passed out of the House Calen-

dar Committee without debate and on the assumption that there would be reasonable consideration of the proposal when it came to the floor.

The bill makes drastic and fundamental changes in law and business practices. It also threatens to make innocent employees of retail establishments handling periodicals informants or hostages to the prosecutors. The resolution of constitutional questions was not explained. The hasty action of the House tends to suggest that it panicked.

I am strongly in favor of reasonable antiobscenity legislation and I hope that I will have the opportunity to cast a vote on a fair and effective bill.

IRA H. MURPHY

House Bill No. 1865 — To make certain provisions, punishment by death.

Mr. Hood moved that House Bill No. 1865 be passed on third and final reading, which motion prevailed by the following vote:

Ayes.....	62
Noes.....	18
Present and not voting	11

Representatives voting aye were: Ashford, Atchley, Bell, Bewley, Bishop, Bissell, Blackburn, Bragg, Buck, Burleson, Burnett (Fentress), Burnett (Sumner), Bussart, Butler, Cawood, Clark, Copeland, Davidson (Wayne), Davis, DeBerry, Elkins, Ellis, Fisher, Ford (Cocke), Ford (Shelby), Fuqua, Gaia, Good, Henry, Hillis, Hood, Hurley, Johnson, Kernell, Lanier, Lashlee, Ledford, Longley, McKinney, Miller, Moore, Murphy (Shelby), Murray (Franklin), Murray (Madison), Naifeh, Phillips, Pruitt, Richardson, Robertson, Robinson (Davidson), Robinson (Washington), Shockley, Spence, Stafford, Stallings, Steinhauer, Tanner, Turner, Wallace, Williams, Yelton and Mr. Speaker McWherter — 62.

Representatives voting no were: Burks, Byrd, Carter, Chiles, Davidson (Robertson), Jensen, McAfee, Martin, Richards, Starnes, Sterling, Watson, Webb, Withers, Wolfe, Wood, Work and Young — 18.

Representatives present and not voting were: Cobb, Darnell, Hall, King, Love, Nolan, Ozment, Robinson (Hamilton), Scruggs, Small and Smith — 11.

A motion to reconsider was tabled.

Mr. Hood moved that House Bill No. 1866 be placed on the Calendar for Thursday, March 23, 1978, which motion prevailed.

House Bill No. 1742 — To amend Chapter 734, Public Acts of 1976.

Mr. Ashford moved that House Bill No. 1742 be passed on third and final reading, which motion prevailed by the following vote:

Ayes.....	85
Noes.....	4
Present and not voting	1

Representatives voting aye were: Ashford, Atchley, Bell, Bewley, Bissell, Blackburn, Bragg, Brewer, Buck, Burks, Burleson, Burnett (Fentress), Bussart, Butler, Byrd, Carter, Cawood, Chiles, Clark, Copeland, Darnell, Davis, DeBerry, Dixon, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Fuqua, Gaia, Good, Hall, Henry, Hillis, Hood, Hurley, Jensen, Johnson, Kernell, Lanier, Lashlee, Ledford, Longley, McAfee, McKinney, Miller, Moore, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Murray (Madison), Naifeh, Nolan, Ozment, Phillips, Pickering, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Shockley, Small, Smith, Spence, Stafford, Stallings, Starnes, Steinhauer, Tanner, Turner, Wallace, Watson, Webb, Williams, Withers, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 85.

Representatives voting no were: Bishop, Burnett (Sumner), Davidson (Robertson) and Ford (Shelby) — 4.

Representative present and not voting was: Wolfe — 1.

A motion to reconsider was tabled.

House Bill No. 1743 — To make certain provisions, creation of Criminal Investigator.

On motion, House Bill No. 1743 was made to conform with Senate Bill No. 1928.

On motion, Senate Bill No. 1928, on same subject, was substituted for House Bill No. 1743.

Mr. Ashford moved that Senate Bill No. 1928 be passed on third and final reading, which motion prevailed by the following vote:

Ayes.....	87
Noes.....	2
Present and not voting	2

Representatives voting aye were: Atchley, Bell, Bewley, Bissell, Blackburn, Bragg, Brewer, Buck, Burks, Burleson, Burnett (Fentress), Bussart, Butler, Byrd, Carter, Cawood, Chiles, Clark, Cobb, Copeland, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DeBerry, DePriest, Dixon, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Fuqua, Gaia, Good, Hall, Henry, Hillis, Hood, Jensen, Johnson, Kernell, Lanier, Lashlee, Ledford, Longley, McAfee, Martin, Miller, Moore, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Murray (Madison), Naifeh, Nolan, Ozment, Phillips, Pickering, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Shockley, Small, Smith, Spence, Stafford, Stallings, Starnes, Steinhauer, Tanner, Turner, Wallace, Watson, Webb, Williams, Withers, Work, Yelton, Young and Mr. Speaker McWherter — 87.

Representatives voting no were: Bishop and Hurley — 2.

Representatives present and not voting were: Burnett (Sumner) and Wolfe — 2.

A motion to reconsider was tabled.

House Bill No. 2020 — To establish Epilepsy Advisory Committee.

Mr. Miller moved that House Bill No. 2020 be passed on third and final reading.

Mr. Bragg moved to amend as follows:

AMENDMENT NO. 1

Amend House Bill No. 2020 by inserting the following new Section to be numbered Section 5 and renumbering the existing Sections accordingly:

The provisions of this act do not constitute an appropriation of funds, and commencing with the fiscal year beginning July 1, 1978, no funds shall be expended under the provisions of this act unless such funds are specifically appropriated in the general appropriations bill pursuant to Tennessee Code Annotated, Sections 9-601 through 9-612, or a specific amendment or supplement thereto.

On motion, the amendment was adopted.

Thereupon, House Bill No. 2020, as amended, passed its third and final reading by the following vote:

Ayes.....	98
Noes.....	0
Present and not voting	1

Representatives voting aye were: Ashford, Atchley, Bell, Bewley, Bishop, Bissell, Blackburn, Bragg, Brewer, Buck, Burks, Burnett (Fentress), Burnett (Sumner), Bussart, Butler, Byrd, Carter, Cawood, Chiles, Clark, Cobb, Copeland, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DeBerry, DePriest, Dixon, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Fuqua, Gaia, Gill, Good, Hall, Henry, Hillis, Hood, Hurley, Jensen, Johnson, Kernell, King, Lanier, Lashlee, Ledford, Longley, Love, McAfee, McKinney, Martin, Miller, Moore, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Murray (Madison), Naifeh, Nolan, Ozment, Phillips, Pickering, Pruitt, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Shockley, Small, Smith, Spence, Stafford, Stallings, Starnes, Steinhauer, Sterling, Tanner, Turner, Wallace, Watson, Webb, Williams, Withers, Wolfe, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 98.

Representative present and not voting was: Burleson — 1.

A motion to reconsider was tabled.

House Bill No. 2381 — To amend Section 23-1506, Code.

Mr. Cobb moved that House Bill No. 2381 be passed on third and final reading.

Mr. Cobb moved to amend as follows:

AMENDMENT NO. 1

Amend House Bill No. 2381 Section 1 is amended by deleting the section in its entirety and substituting in lieu thereof the following new section:

Section 1. Tennessee Code Annotated, Section 23-1506, is amended by deleting the last paragraph in the section in its entirety.

On motion, the amendment was adopted.

Thereupon, House Bill No. 2381, as amended, passed its third and final reading by the following vote:

Ayes.....	85
Noes.....	5
Present and not voting	2

Representatives voting aye were: Ashford, Atchley, Bewley, Bishop, Bissell, Blackburn, Bragg, Brewer, Buck, Burks, Burleson, Burnett (Fentress), Burnett (Sumner), Bussart, Byrd, Carter, Cawood, Chiles, Clark, Cobb, Copeland, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DeBerry, DePriest, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Fuqua, Gaia, Gill, Good, Henry, Hillis, Hood, Hurley, Jensen, Johnson, Kernell, King, Lanier, Lashlee, Ledford, Longley, McAfee, McKinney, Miller, Moore, Murphy (Davidson), Murphy (Shelby), Murray (Madison), Naifeh, Nolan, Ozment, Phillips, Pickering, Rhinehart, Richardson, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Shockley, Smith, Spence, Stafford, Stallings, Starnes, Steinhauer, Tanner, Turner, Wallace, Watson, Webb, Withers, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 85.

Representatives voting no were: Murray (Franklin), Richards, Robertson, Small and Wolfe — 5.

Representatives present and not voting were: Bell and Butler — 2.

A motion to reconsider was tabled.

House Bill No. 2415 — To amend Title 39, Chapter 3, Code.

Mr. Wood moved that House Bill No. 2415 be passed on third and final reading.

Mr. Ozment moved to amend as follows:

AMENDMENT NO. 1

Amend House Bill No. 2415 by deleting Section 1 in its entirety and by substituting in lieu the following language:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 3, is amended by adding the following:

(a) An abortion otherwise permitted by law shall be performed or induced only with the informed written consent of the pregnant woman, given freely and without coercion.

(b) In order to insure that a consent for an abortion is truly informed consent, an abortion shall be performed or induced upon a pregnant woman only after she has been orally informed by her attending physician of the following facts and has signed a consent form acknowledging that she has been informed as follows:

(1) That according to the best judgment of her attending physician she is pregnant.

(2) The number of weeks elapsed from the probable time of the conception of her unborn child, based upon the information provided by her as to the time of her last menstrual period or after a history physical examination and appropriate laboratory tests.

(3) That if more than 22 weeks have elapsed from the time of conception, her unborn child may be viable, that is, capable of surviving outside of the womb, and that her attending physician has a legal obligation to take steps to preserve the life and health of her viable unborn child during the abortion.

(4) That abortion is a major surgical procedure.

(5) That numerous public and private agencies and services are available to assist her during her pregnancy and after the birth of her child, if she chooses not to have the abortion, whether she wishes to keep her child or place him or her for adoption, and that her physician will provide her with a list of such agencies and the services available if she so requests.

(6) Numerous benefits and risks are attendant either to continued pregnancy and childbirth or to abortion depending upon the circumstances that the patient might find herself in. The physician shall explain these benefits and risks to the best of his ability and knowledge of the circumstances involved.

(c) At the same time the attending physician provides the information required by paragraph B of this section, he shall inform the pregnant woman of the particular risks associated with her pregnancy and childbirth and the abortion or child delivery technique to be employed, including providing her with at least a general description of the medical instructions to be followed subsequent to the abortion or childbirth in order to insure her safe recovery.

(d) There shall be a 2 day waiting period after the physician provides the required information, excluding the day on which such information was given and on the third day following the day such information was given, the patient may return to the physician and sign a consent form.

(e) The attending physician performing or inducing the abortion shall provide the pregnant woman with a duplicate copy of the consent form signed by her.

Mr. Gill moved to amend Amendment No. 1 as follows:

AMENDMENT NO. 1 TO AMENDMENT NO. 1

Amend Amendment No. 1 by adding the following sentence to Section 1 (a):

Such consent shall be treated as confidential.

On motion, Amendment No. 1 to Amendment No. 1 was adopted.

Mr. Richards moved to amend Amendment No. 1 as follows:

AMENDMENT NO. 2 TO AMENDMENT NO. 1

Amend Amendment No. 1 by adding:

Further, that the doctor only be required to advise the patient that these services are available but not be required to supply specific information concerning such services.

On motion, Amendment No. 2 to Amendment No. 1 was adopted.

Thereupon, Amendment No. 1, as amended, was adopted.

Mr. Wood moved to amend as follows:

AMENDMENT NO. 2

Amend House Bill No. 2415 by adding a new section 6

If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

On motion, the amendment was adopted.

Thereupon, House Bill No. 2415, as amended, passed its third and final reading by the following vote:

Ayes.....	81
Noes.....	5
Present and not voting	5

Representatives voting aye were: Ashford, Atchley, Bell, Bewley, Bishop, Bissell, Bragg, Brewer, Buck, Burks, Burleson, Burnett (Fentress), Bussart, Butler, Byrd, Carter, Cawood, Chiles, Clark, Cobb, Copeland, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DePriest, Elkins, Ellis, Fleming, Ford (Cocke), Fuqua, Gill, Good, Hall, Henry, Hillis, Hurley, Jensen, Johnson, Kernell, Lanier, Lashlee, Ledford, Longley, McAfee, McKinney, Martin, Miller, Moore, Murphy (Davidson), Murray (Franklin), Murray (Madison), Naifeh, Ozment, Phillips, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Shockley, Small, Smith, Spence, Stafford, Stallings, Starnes, Steinhauer, Tanner, Turner, Wallace, Watson, Webb, Withers, Wolfe, Wood, Work, Young and Mr. Speaker McWherter — 81.

Representatives voting no were: DeBerry, Ford (Shelby), Gaia, King and Murphy (Shelby) — 5.

Representatives present and not voting were: Blackburn, Burnett (Sumner), Hood, Nolan and Yelton — 5.

A motion to reconsider was tabled.

Mr. Love moved that House Bill No. 2351 be placed on the Calendar for Thursday, March 23, 1978, which motion prevailed.

House Bill No. 1650 — To provide for Interstate signs, Mason's Business College.

On motion, House Bill No. 1650 was made to conform with Senate Bill No. 1545.

On motion, Senate Bill No. 1545, on same subject, was substituted for House Bill No. 1650.

Mr. Love moved that Senate Bill No. 1545 be passed on third and final reading, which motion prevailed by the following vote:

Ayes.....	82
Noes.....	2
Present and not voting	6

Representatives voting aye were: Atchley, Bell, Bewley, Bishop, Bissell, Blackburn, Bragg, Brewer, Burks, Burleson, Burnett (Fentress), Burnett (Sumner), Bussart, Byrd, Carter, Cawood, Clark, Davidson (Robertson), Davidson (Wayne), Davis, DeBerry, DePriest, Dixon, Elkins, Ellis, Fleming, Ford (Cocke), Ford (Shelby), Fuqua, Gaia, Gill, Good, Hall, Hillis, Hood, Hurley, Jensen, Kernell, King, Lanier, Lashlee, Longley, Love, McKinney, Miller, Moore, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Murray (Madison), Naifeh, Nolan, Ozment, Phillips, Pickering, Pruitt, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Shockley, Small, Smith, Spence, Stallings, Starnes, Steinhauer, Turner, Wallace, Watson, Webb, Williams, Withers, Wolfe, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 82.

Representatives voting no were: Ledford and Stafford — 2.

Representatives present and not voting were: Ashford, Buck, Butler, Cobb, Henry and Tanner — 6.

A motion to reconsider was tabled.

House Bill No. 2280 — To amend Title 9, Chapter 8, Code.

On motion, House Bill No. 2280 was made to conform with Senate Bill No. 2298.

On motion, Senate Bill No. 2298, on same subject, was substituted for House Bill No. 2280.

Mr. Jensen moved that Senate Bill No. 2298 be passed on third and final reading.

Mr. Jensen moved to amend as follows:

AMENDMENT NO. 1

Amend Senate Bill No. 2298 by changing the period at the end of the amendatory language of Section 1 to a semicolon and adding the following language:

provided, further, that the determination of employment status, authorized duty and active duty within the meaning of this section shall be made pursuant to rules developed by the Adjutant General under the Uniform Administrative Procedures Act and approved by the Board of Claims, which rules shall establish the procedure to be used by the Adjutant General or his designated agent in determining the circumstances and procedures under which individuals shall be granted the status authorized by this section.

AND FURTHER AMEND by deleting the following language from the first and second paragraphs of the amendatory language of Section 2:

which shall make awards in accordance with the provisions of this chapter.

and substitute instead in the first and second paragraphs the following language:

which shall consider the recommendations in accordance with the provisions of this chapter and other applicable statutes and legally adopted policies.

On motion, the amendment was adopted.

Thereupon, Senate Bill No. 2298, as amended, passed its third and final reading by the following vote:

Ayes.....	93
Noes.....	0

Representatives voting aye were: Ashford, Atchley, Bell, Bewley, Bishop, Bissell, Blackburn, Bragg, Brewer, Buck, Burks, Burleson, Burnett (Fentress), Burnett (Sumner), Bussart, Butler, Byrd, Cawood, Chiles, Clark, Cobb, Copeland, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DeBerry, DePriest, Elkins, Ellis, Fleming, Ford (Cocke), Ford (Shelby), Fuqua, Gaia, Gill, Good, Hall, Henry, Hillis, Hood, Hurley, Jensen, Johnson, Kernell, King, Lanier, Lashlee, Ledford, Longley, Love, McAfee, McKinney, Miller, Moore, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Murray (Madison), Naifeh, Nolan, Ozment, Phillips, Pickering, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Shockley, Small, Smith, Spence, Stafford, Stallings, Starnes, Steinhauer, Tanner, Turner, Wallace, Watson, Webb, Williams, Withers, Wolfe, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 93.

A motion to reconsider was tabled.

House Bill No. 1755 — To make certain provisions, duties, state building commission.

Mr. Jensen moved that House Bill No. 1755 be passed on third and final reading.

Mr. Jensen moved to amend as follows:

AMENDMENT NO. 1

Amend House Bill No. 1755 by deleting the amendatory language of Section 1 of the bill in its entirety and substituting instead the following:

It shall be the duty and responsibility of the state building commission to enforce the provisions of the Tennessee Public Buildings Accessibility Act, such act being located in Tennessee Code Annotated, Sections 53-2544—53-2548, inclusive, as to all public buildings owned or leased by the state of Tennessee or any department, institution or agency thereof, and any subsequent acts which require specific construction or design specifications, techniques or objectives for such state public buildings.

On motion, the amendment was adopted.

Thereupon, House Bill No. 1755, as amended, passed its third and final reading by the following vote:

Ayes.....	94
Noes.....	0

Representatives voting aye were: Ashford, Atchley, Bell, Bewley, Bishop, Bissell, Blackburn, Bragg, Buck, Burks, Burleson, Burnett (Fentress), Burnett (Sumner), Bussart, Butler, Byrd, Carter, Cawood, Chiles, Clark, Cobb, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DeBerry, DePriest, Dixon, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Fuqua, Gaia, Gill, Good, Hall, Henry, Hillis, Hood, Hurley, Jensen, Johnson, Kernell, King, Lanier, Lashlee, Longley, McAfee, McKinney, Martin, Miller, Moore, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Murray (Madison), Naifeh, Nolan, Ozment, Phillips, Pickering, Pruitt, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Shockley, Small, Smith, Spence, Stafford, Stallings, Starnes, Steinhauer, Tanner, Turner, Wallace, Watson, Webb, Williams, Withers, Wolfe, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 94.

A motion to reconsider was tabled.

Mr. Jensen moved that House Bill No. 2279 be placed on the Calendar for Thursday, March 23, 1978, which motion prevailed.

House Bill No. 1645 — To set certain requirements, members of Arts Commission.

On motion, House Bill No. 1645 was made to conform with Senate Bill No. 1631.

On motion, Senate Bill No. 1631, on same subject, was substituted for House Bill No. 1645.

Mr. Jensen moved that Senate Bill No. 1631 be passed on third and final reading, which motion prevailed by the following vote:

Ayes.....	73
Noes.....	22

Representatives voting aye were: Atchley, Bell, Bewley, Bishop, Blackburn, Bragg, Buck, Burks, Burleson, Burnett (Fentress), Bussart, Butler, Carter, Cawood, Copeland, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DePriest, Dixon, Elkins, Fisher, Fleming, Ford (Cocke), Fuqua, Gill, Good, Hall, Henry, Hillis, Hood, Hurley, Jensen, Johnson, Lanier, Lashlee, Ledford, Longley, Love, McAfee, Miller, Moore, Murray (Franklin), Murray (Madison), Naifeh, Nolan, Phillips, Pruitt, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Shockley, Small, Smith, Stafford, Stallings, Starnes, Tanner, Wallace, Watson, Webb, Wolfe, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 73.

Representatives voting no were: Ashford, Brewer, Burnett (Sumner), Byrd, Chiles, Clark, DeBerry, Ellis, Ford (Shelby), Gaia, Kernell, King, McKinney, Martin, Murphy (Davidson), Murphy (Shelby), Ozment, Spence, Steinhauer, Turner, Williams and Withers — 22.

A motion to reconsider was tabled.

EXPLANATION OF VOTE

Mr. Speaker, we did not vote on House Bill No. 2021 because we feel that the bill did not receive adequate consideration on the floor of the House. It was passed out of the House Calendar Committee without debate and on the assumption that there would be reasonable consideration of the proposal when it came to the floor.

The bill makes drastic and fundamental changes in law and business practices. It also threatens to make innocent employees of retail establishments handling periodicals informants or hostages to the prosecutors. The resolution of constitutional questions was not explained. The hasty action of the House tends to suggest that it panicked.

We are strongly in favor of reasonable antiobscenity legislation and we hope that we will have the opportunity to cast a vote on a fair and effective bill.

HARPER BREWER, JR.
TEDDY WITHERS.

House Bill No. 1851 — To make certain provisions, conflict of interest disclosure.

Mr. Lanier moved that House Bill No. 1851 be passed on third and final reading, which motion prevailed by the following vote:

Ayes.....	93
Noes.....	2

Representatives voting aye were: Ashford, Atchley, Bell, Bewley, Bishop, Blackburn, Bragg, Brewer, Buck, Burks, Burleson, Burnett (Fentress), Burnett (Sumner), Bussart, Butler, Byrd, Carter, Cawood, Chiles, Clark, Cobb, Copeland, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DeBerry, DePriest, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Fuqua, Gaia, Gill, Good, Hall, Henry, Hillis, Hood, Hurley, Jensen, Johnson, Kernell, King, Lanier, Lashlee, Ledford, Longley, Love, McAfee, McKinney, Martin, Miller, Moore, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Murray (Madison), Naifeh, Nolan, Ozment, Phillips, Pruitt, Richards, Robertson, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Shockley, Small, Smith, Spence, Stafford, Stallings, Starnes, Steinhauer, Tanner, Turner, Wallace, Watson, Webb, Williams, Withers, Wolfe, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 93.

Representatives voting no were: Dixon and Richardson — 2.

A motion to reconsider was tabled.

Mr. Burnett (Fentress) moved that House Bill No. 1967 be placed on the Calendar for Thursday, March 23, 1978, which motion prevailed.

House Bill No. 2434 — To amend Title 2, Chapter 10, Code.

Mr. Jensen moved that House Bill No. 2434 be passed on third and final reading.

Mr. Gill moved to amend as follows:

AMENDMENT NO. 1

Amend House Bill No. 2434 in Section 2, by substituting the words "secretary of state" for the word "librarian".

AND FURTHER AMEND, in Section 6, by substituting the words "secretary of state" for the word "librarian".

AND FURTHER AMEND, by adding the following new sections:

Section . Tennessee Code Annotated, Section 2-1002, is amended by deleting subsection (c) in its entirety and by substituting instead the following:

(c) "Secretary of state" means the secretary of state of Tennessee.

Section . Tennessee Code Annotated, Section 2-1003, is amended by deleting the word "librarian" wherever it appears and by substituting instead the words "secretary of state".

Section . Tennessee Code Annotated, Section 2-1004, is amended by deleting the words "state librarian and archivist" and substituting instead the words "secretary of state", and by redesignating subsection (i) to be subsection (j) and by adding a new subsection (i) as follows:

(i) To furnish to each candidate the necessary forms, predated with the date of the filing deadline, with a statement of the information required from the candidate and blanks, clearly marked, in which the candidate can insert the name of his campaign treasurer, the amount of contributions received, the amount of expenditures, and his signatures.

Section . Tennessee Code Annotated, Section 2-1005, is amended by deleting the word "librarian" and by substituting instead the words "secretary of state".

Section . Tennessee Code Annotated, Section 2-1008, is amended by deleting the word "librarian" and by substituting instead the words "secretary of state".

Section . Tennessee Code Annotated, Section 2-1009, is amended by deleting the word "librarian" and by substituting instead the words "secretary of state".

Section . Tennessee Code Annotated, Section 2-1010, is amended by deleting the word "librarian" and by substituting instead the words "secretary of state".

Section . Tennessee Code Annotated, Section 2-1012, is amended by deleting the word "librarian" and by substituting instead the words "secretary of state".

Section . Tennessee Code Annotated, Section 2-1014, is amended by deleting the word "librarian" and by substituting instead the words "secretary of state".

Section . Tennessee Code Annotated, Section 2-1015, is amended by deleting the word "librarian" and by substituting instead the words "secretary of state".

Section . Tennessee Code Annotated, Section 2-1016, is amended by deleting the word "librarian" and by substituting instead the words "secretary of state".

On motion, the amendment was adopted.

Mr. Brewer asked to be recorded as voting "no" on Amendment No. 1.

Mr. McKinney moved to amend as follows:

AMENDMENT NO. 2

Amend House Bill No. 2434 in Title 2 Section 6, 1st sentence, 1st paragraph; by placing a period following - 2-1010 and deleting the remainder of that sentence.

On motion, the amendment was adopted.

Mr. Jensen moved to amend as follows:

AMENDMENT NO. 3

Amend House Bill No. 2434 by adding to the amendatory language of Section 1 the following sentence:

Any person seeking an office within the provisions of this section shall be eligible to be a candidate for such office, notwithstanding any provision of subsequent sections of this chapter to the contrary.

On motion, the amendment was adopted.

Mr. Copeland moved to amend as follows:

AMENDMENT NO. 4

Amend House Bill No. 2434 by adding the following new section 7 and renumbering the present section 7 appropriately:

Section 7. Tennessee Code Annotated, section 2-1002 (d) (4), is amended by adding the following after the word "office":

unless such organization or corporation seeks to influence financial disclosure or ethics legislation before the General Assembly.

Amendment No. 4 was adopted by the following vote:

Ayes.....	82
Noes.....	8

Representatives voting aye were: Ashford, Atchley, Bell, Bewley, Bishop, Bissell, Blackburn, Bragg, Buck, Burks, Burleson, Burnett (Fentress), Burnett (Sumner), Butler, Byrd, Carter, Cawood, Chiles, Clark, Copeland, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DePriest, Dixon, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Fuqua, Gaia, Gill, Good, Hall, Henry, Hillis, Hood, Hurley, Johnson, Lanier, Lashlee, Ledford, Longley, Love, McAfee, McKinney, Miller, Moore, Murray (Franklin), Murray (Madison), Naifeh, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Shockley, Small, Smith, Spence, Stafford, Stallings, Starnes, Steinhauer, Tanner, Turner, Wallace, Watson, Webb, Williams, Wolfe, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 82.

Representatives voting no were: Cobb, DeBerry, Jensen, Kernell, Martin, Murphy (Davidson), Ozment and Phillips — 8.

Thereupon, House Bill No. 2434, as amended, passed its third and final reading by the following vote:

Ayes.....	95
Noes.....	2

Representatives voting aye were: Ashford, Atchley, Bell, Bewley, Bishop, Bissell, Blackburn, Bragg, Brewer, Buck, Burks, Burleson, Burnett (Fentress), Burnett (Sumner), Bussart, Butler, Byrd, Carter, Cawood, Chiles, Clark, Cobb, Copeland, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DeBerry, DePriest, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Fuqua, Gaia, Gill, Good, Hall, Henry, Hillis, Hood, Hurley, Jensen, Johnson, Kernell, Lanier, Lashlee, Ledford, Longley, Love, McAfee, McKinney, Martin, Miller, Moore, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Murray (Madison), Naifeh, Nolan, Ozment, Phillips, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Shockley, Small, Smith, Spence, Stafford, Stallings, Starnes, Steinhauer, Sterling, Tanner, Turner, Wallace, Watson, Webb, Williams, Withers, Wolfe, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 95.

Representatives voting no were: Dixon and Pickering — 2.

A motion to reconsider was tabled.

House Bill No. 2064 — To amend Mental Health and Retardation Licensure Law.

Mr. Hood moved that House Bill No. 2064 be passed on third and final reading.

Mr. Hood moved to amend as follows:

AMENDMENT NO. 1

Amend House Bill No. 2064 by deleting Section 10 in its entirety and substituting instead the following:

SECTION 10. The department shall make at least one unannounced inspection of each licensed facility yearly. The department shall make such inspection only during regular business hours and may not pursue criminal prosecution as a result of any evidence gathered at the unannounced inspection.

Upon giving reasonable notice, the department may enter and inspect any facility making application for or holding a license. Such inspection may include the review of physical plant, program, activities, and facility records. The department may require an annual report from each licensed facility to be submitted in a form prescribed by the department.

AND FURTHER AMEND by adding the following sections:

SECTION 11. The department may provide advice and assistance to facility owners or operators seeking a license under this chapter. The department shall provide assistance in placing persons displaced by the denial, suspension, or revocation of a license under this chapter.

SECTION 12. The department may grant a provisional license for up to one year to a facility if:

- (1) The facility is making a diligent effort to comply with standards promulgated under this chapter;

- (2) The continued operation of the facility will not endanger the health or safety of its clients; and
- (3) The continued operation of the facility is necessary because care is not otherwise reasonably available for its clients.

Provisional licenses are not renewable. The provisional license shall specify the standards which the facility is not required to meet. Within thirty (30) days of the granting of a provisional license, the owner or operator shall submit a compliance plan of steps he will take to assure compliance with all standards by the end of the provisional license period. Copies of provisional licenses granted and compliance plans shall be maintained in a central location and are open to public inspection.

SECTION 13. The department shall investigate serious reports of abuse, dereliction or deficiency in the operation of a licensed facility. The commissioner shall suspend or revoke the license of any residential facility if serious abuse, dereliction or deficiency is found and not corrected in a reasonable time.

AND FURTHER AMEND by renumbering the existing Section 12 as Section 14; and by deleting the word, symbol and figures "July 1, 1979" therein and substituting instead the word, symbol and figures "January 1, 1979."

Mr. Hood moved to amend Amendment No. 1 as follows:

AMENDMENT NO. 1 TO AMENDMENT NO. 1

Amend Amendment No. 1 by deleting the third sentence in Section 10 in its entirety and by substituting the following sentence:

The department shall require an annual report from each licensed facility to be submitted in a form prescribed by the department.

On motion, Amendment No. 1 to Amendment No. 1 was adopted.

Thereupon, Amendment No. 1, as amended, was adopted.

Mr. Gill moved to amend as follows:

AMENDMENT NO. 2

Amend House Bill No. 2064 in Section 4 by deleting the first and second sentences in their entirety and by substituting instead the following sentences:

The department shall promulgate rules and regulations for licensure of facilities regarding adequacy of services and facility conditions. The regulations shall include consideration of the adequacy of environment, life safety, treatment or habilitation services and such other considerations as are deemed necessary by the department to determine the adequacy of the provision of mental health and mental retardation services.

AND FURTHER AMEND Section 7 by deleting the final sentence in its entirety and by substituting instead the following sentences:

Upon receipt of the notice, the applicant may request a hearing to be conducted under the provisions of the Uniform Administrative Procedures Act. The parties to hearings conducted shall be given notice of the hearing at least ten (10) days before the hearing.

AND FURTHER AMEND Section 8 by deleting it in its entirety.

AND FURTHER AMEND Section 9 by deleting it in its entirety and by substituting the following:

There is a rebuttable presumption that a facility in which four (4) or more unrelated mentally ill or mentally retarded adults or minors reside is providing mental health or mental retardation services.

AND FURTHER AMEND Section 13 by adding the following sentence:

A facility which can demonstrate compliance with regulations and standards by previously acquired license from another state is considered in compliance with regulations and standards under this chapter to the extent that duplicate inspection and enforcement is necessary.

On motion, the amendment was adopted.

Mr. Hood moved to amend as follows:

AMENDMENT NO. 3

Amend House Bill No. 2064 by adding the word "agency" following the word "state" in the third sentence of the amendatory language of Section 13.

AND FURTHER AMEND by deleting the words "third sentence" in the directory language of Amendment No. 1 to Amendment No. 1 and by inserting instead the words "fifth sentence".

AND FURTHER AMEND by inserting between the first and second sentences of paragraph 2 of Section 10 the following new sentence:

The department may charge a fee for such facility inspection in an amount not to exceed fifty dollars (\$50.00).

On motion, the amendment was adopted.

Mr. Hood moved that House Bill No. 2064 be placed on the Calendar for Thursday, March 23, 1978, which motion prevailed.

RESOLUTION LYING OVER

Senate Joint Resolution No. 181 — Relative to study, destruction of trees, highway rights-of-way, Transportation Department.

Under the rules, Senate Joint Resolution No. 181 was referred to the Committee on Calendar and Rules.

HOUSE BILL ON SENATE AMENDMENTS

House Bill No. 847 — To make provisions, Retail Sales Tax Act.

SENATE AMENDMENT NO. 1

Amend House Bill No. 847 by substituting for the amendatory language of Section 1 the following:

SECTION 1. Sales to or use by a contractor, subcontractor or material vendor of tangible personal property, including rentals thereof and labor or services performed in the fabrication, manufacture, delivery or installation of such tangible personal property, if that property is sold or used solely in the performance of a pre-existing lump sum or unit price construction contract shall be exempt from the payment of the state rate of tax as provided in Chapter 30 of Title 67 of the Tennessee Code Annotated, at a rate in excess of that as provided by law March 31, 1976. For the purpose of this paragraph the term "pre-existing lump sum or unit price construction contract" shall mean a written contract for the construction of improvements to real property under which the amount payable to the contractor, subcontractor or material vendor is fixed without regard to the costs incurred by him in the performance thereof, and which was entered into prior to April 1, 1976. Upon the application of any person claiming the exemption in this paragraph, the Commissioner of Revenue is authorized to issue exemption certificates to such persons which, in his judgment, are entitled thereto. The Commissioner of Revenue is authorized to make final determination after hearing, if demanded, as to whether any person is entitled to the benefit of the exemption established by this paragraph. In the event any contractor, subcontractor or material vendor, pursuant to a pre-existing lump sum or unit price construction contract, has paid the state sales tax at a rate in excess of the rate provided by law in effect on March 31, 1976, upon the application of any person claiming the benefit of the exemption established by this paragraph, the Commissioner of Revenue shall issue to such taxpayer, in his capacity as a dealer, an official credit memorandum equal to the net amount paid by such taxpayer in excess of such rate. Such memorandum shall be accepted by the Commissioner of Revenue at full face value from the dealer to whom it is issued, in the remittance for subsequent taxes accrued under the provisions of this chapter, provided that in cases where a dealer has retired from business and has filed a final return, a refund of tax shall be made to such dealer to the extent of the unused portion of such credit memorandum. Provided, however, all such refunds shall be made under the procedures and limitations set out in Section 67-2301.

SENATE AMENDMENT NO. 2

Amend House Bill No. 847 by deleting the fourth sentence of Section 1 and by substituting the following:

"Upon the application of any person, including a contractor, subcontractor, or material vendor, claiming the exemption in this paragraph, the Commissioner is authorized to issue exemption certificates to such persons which, in his judgment, are entitled thereto."

SENATE AMENDMENT NO. 3

Amend House Bill No. 847 by inserting in the seventh sentence after the words "provided that in cases where a dealer has retired" the words "or has otherwise withdrawn" so that the amended sentence reads as follows:

"Such memorandum shall be accepted by the commissioner at full face value from the dealer to whom it is issued, in the remittance for subsequent taxes accrued under the provisions of this chapter, provided that in cases where a dealer has retired or has otherwise withdrawn from business and has filed a final return, a refund of tax shall be made to such dealer to the extent of the unused portion of such credit memorandum."

SENATE AMENDMENT NO. 4

Amend House Bill No. 847 by adding to the amendatory language of Section 1 a new sentence reading as follows:

The commissioner may, in his discretion, limit the credit allowable under this act so that the credit will be allowed equally in the fiscal year in which claimed and the two succeeding fiscal years. Claims for credit under this act shall be barred if not filed before September 30, 1978, or such later date which is within the limitations set forth in Section 67-2301.

Mr. Lanier moved that the House concur in Senate Amendments Nos. 1, 2, 3 and 4, which motion prevailed by the following vote:

Ayes.....	78
Noes.....	2
Present and not voting	4

Representatives voting aye were: Atchley, Bell, Bewley, Bishop, Blackburn, Brewer, Burleson, Bussart, Butler, Byrd, Carter, Chiles, Clark, Copeland, Darnell, Davidson (Robertson), Davis, DeBerry, DePriest, Dixon, Elkins, Ellis, Fleming, Ford (Cocke), Ford (Shelby), Fuqua, Gaia, Gill, Good, Hall, Henry, Hillis, Hood, Hurley, Jensen, Johnson, Kernell, Lanier, Lashlee, Ledford, Longley, McAfee, Martin, Miller, Moore, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Murray (Madison), Naifeh, Nolan, Ozment, Phillips, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Hamilton), Scruggs, Shockley, Small, Smith, Spence, Stafford, Stallings, Starnes, Tanner, Wallace, Watson, Webb, Withers, Wolfe, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 78.

Representatives voting no were: Davidson (Wayne) and Turner — 2.

Representatives present and not voting were: Ashford, Buck, Burnett (Sumner) and Cawood — 4.

A motion to reconsider was tabled.

Ms. Gaia asked to be recorded as changing her vote from "aye" to "no" on the motion to table the motion to reconsider Senate Bill No. 2016.

MESSAGE FROM THE GOVERNOR

MR. SPEAKER:

I am directed by the Governor to return herewith: House Bills Nos. 1579 and 2442, with his approval.

EDDIE SISK,
Counsel to the Governor.

ENROLLED BILLS

MR. SPEAKER:

Your Chief Engrossing Clerk begs leave to report that we have carefully compared House Bills Nos. 273, 1548, 1744, 1745, 2007, 2048, 2211, 2378, 2459, 2467 and 2483; and House Resolution No. 101; and House Joint Resolutions Nos. 326, 362, 374, 454, 455, 456 and 457; and find same correctly enrolled and ready for the signatures of the Speakers.

MARILYN EVELYN HAND,
Chief Engrossing Clerk.

SIGNED

The Speaker announced that he had signed the following: House Bills Nos. 273, 1548, 1744, 1745, 2007, 2048, 2211, 2378, 2459, 2467 and 2483; House Resolution No. 101; House Joint Resolutions Nos. 326, 362, 374, 454, 455, 456 and 457.

CORRECTION TO JOURNAL

On March 7, 1978 (page 2727), the Report of the Committee on Finance, Ways and Means should have included House Bills Nos. 1535 (with amendment) and 2019 as recommended for passage.

House Bills Nos. 1535 and 2019 were referred to the Committee on Calendar and Rules on same date.

MESSAGE FROM THE SENATE

MR. SPEAKER: I am directed to request the return of House Bill No. 1689, for further consideration.

CLYDE W. McCULLOUGH, JR.,
Chief Clerk.

On motion of Mr. Phillips, House Bill No. 1689 was returned to the Senate as requested.

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 1480 — To make provisions, income supplements, police officers.

SENATE AMENDMENT NO. 1

Amend House Bill No. 1480 by deleting the words and figures "five hundred dollars (\$500.00)" wherever they appear in the amendatory language and by substituting instead the words and figures "six hundred dollars (\$600.00)".

Mr. Lashlee moved that the House concur in Senate Amendment No. 1, which motion prevailed by the following vote:

Ayes.....	91
Noes.....	0

Representatives voting aye were: Ashford, Atchley, Bell, Bewley, Bishop, Blackburn, Bragg, Brewer, Buck, Burks, Burleson, Burnett (Fentress), Burnett (Sumner), Bussart, Butler, Byrd, Carter, Cawood, Chiles, Clark, Cobb, Copeland, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DeBerry, DePriest, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Fuqua, Gaia, Gill, Good, Hall, Henry, Hillis, Hurley, Johnson, Kernell, Lanier, Lashlee, Ledford, Longley, Love, McAfee, Martin, Miller, Moore, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Murray (Madison), Naifeh, Ozment, Phillips, Pickering, Pruitt, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Hamilton), Scruggs, Shockley, Small, Smith, Spence, Stafford, Stallings, Starnes, Steinhauer, Sterling, Tanner, Turner, Wallace, Watson, Webb, Williams, Withers, Wolfe, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 91.

A motion to reconsider was tabled.

Mr. Lashlee moved that the rules be suspended for the immediate consideration of Senate Joint Resolution No. 232, which motion prevailed.

Senate Joint Resolution No. 232 — Relative to investigation, abandonment, certain portion of L & N Railroad.

On motion of Mr. Lashlee, the resolution was concurred in.

A motion to reconsider was tabled.

Mr. Hillis moved that the rules be suspended for the purpose of introducing House Joint Resolution No. 500 out of order, which motion prevailed.

House Joint Resolution No. 500 — Relative to expressing sorrow, death of Mr. Eldridge Youngblood — By Hillis.

On motion, the rules were suspended for the immediate consideration of the resolution.

On motion of Mr. Hillis, the resolution was adopted.

A motion to reconsider was tabled.

Mr. Fuqua moved that the rules be suspended for the purpose of recalling House Joint Resolution No. 482 from the Committee on Calendar and Rules for immediate consideration, which motion prevailed.

House Joint Resolution No. 482 — Relative to expressing sorrow, death of John J. White.

Mr. Fuqua moved that House Joint Resolution No. 482 be adopted, which motion prevailed.

A motion to reconsider was tabled.

On motion, all members were added as sponsors of House Joint Resolution No. 482.

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 1949 — To make certain provisions, coon dog training.

SENATE AMENDMENT NO. 1

Amend House Bill No. 1949 by inserting the following new section immediately following section 1 and by renumbering subsequent sections accordingly:

Section . Tennessee Code Annotated, Section 51-441 is further amended by adding the following new paragraph at the end of the section:

It shall be unlawful to train coon dogs by chasing or hunting coons in Washington County from March 1 to May 15 in each year.

Mr. Tanner moved that the House concur in Senate Amendment No. 1, which motion prevailed by the following vote:

Ayes.....	90
Noes.....	0
Present and not voting	1

Representatives voting aye were: Atchley, Bell, Bewley, Bishop, Blackburn, Bragg, Buck, Burks, Burleson, Burnett (Fentress), Burnett (Sumner), Bussart, Butler, Byrd, Carter, Cawood, Chiles, Clark, Cobb, Copeland, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DePriest, Dixon, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Fuqua, Gill, Good, Hall, Henry, Hillis, Hood, Hurley, Jensen, Johnson, Kernell, Lanier, Lashlee, Ledford, Longley, Love, McKinney, Martin, Miller, Moore, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Murray (Madison), Naifeh, Nolan, Ozment, Phillips, Pickering, Pruitt, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Hamilton), Scruggs, Shockley, Small, Smith, Spence, Stafford, Stallings, Starnes, Steinhauer, Tanner, Turner, Wallace, Watson, Webb, Williams, Withers, Wolfe, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 90.

Representative present and not voting was: DeBerry — 1.

A motion to reconsider was tabled.

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 1805 — To amend Section 6-728, Code.

SENATE AMENDMENT NO. 5

Amend House Bill No. 1805 by redesignating Section 2 as Section 3 and substituting a new Section 2 in lieu thereof as follows:

Section 2. Tennessee Code Annotated, Section 6-728 is further amended by changing the punctuation at the end of the last sentence from a period to a semi-colon and adding the following:

'provided further, the prohibition of regulatory fees, in particular, inspection fee or any citation or fine for noncompliance with any regulatory license or inspection requirement' shall not apply to municipalities within counties having a population of not less than two hundred seventy five thousand (275,000) according to the 1970 United States Census of population or any subsequent federal census; provided further the said prohibition shall not apply to metropolitan forms of government.

Mr. Moore moved that the House nonconcur in Senate Amendment No. 5, which motion prevailed.

Mr. Robinson (Hamilton) asked to be recorded as voting no on the motion to nonconcur in Senate Amendment No. 5 to House Bill No. 1805.

Mr. Gill asked to be recorded as voting "aye" the motion to nonconcur in Senate Amendment No. 5 to House Bill No. 1805.

Mr. Bragg moved that the rules be suspended in order to recall House Joint Resolution No. 450 from the Committee on Calendar and Rules for immediate consideration, which motion prevailed.

House Joint Resolution No. 450 — Relative to urging the United States Congress to pass certain medicaid legislation.

Mr. Bragg moved that House Joint Resolution No. 450 be adopted, which motion prevailed by the following vote:

Ayes.....	86
Noes.....	0
Present and not voting	3

Representatives voting aye were: Atchley, Bell, Bewley, Blackburn, Bragg, Buck, Burks, Burleson, Burnett (Fentress), Burnett (Sumner), Bussart, Butler, Byrd, Carter, Cawood, Chiles, Clark, Copeland, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DeBerry, DePriest, Dixon, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Fuqua, Gaia, Good, Hall, Henry, Hood, Hurley, Jensen, Johnson, Kernell, Lanier, Lashlee, Ledford, Longley, Love, McAfee, McKinney, Martin, Miller, Moore, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Murray (Madison), Naifeh, Nolan, Phillips, Pickering, Pruitt, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Hamilton), Scruggs, Shockley, Small, Smith, Spence, Stafford, Stallings, Starnes, Steinhauer, Tanner, Wallace, Watson, Webb, Withers, Wolfe, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 86.

Representatives present and not voting were: Cobb, Hillis and Ozment — 3.

A motion to reconsider was tabled.

MESSAGE FROM THE SENATE

MR. SPEAKER: I am directed to return to the House, Senate Bill No.

1607 — To amend Section 50-902, Code.

The Senate concurred in House Amendment No. 1 and nonconcurred in House Amendment No. 2.

CLYDE W. McCULLOUGH, JR.,
Chief Clerk.

FURTHER CONSIDERATION OF SENATE BILL NO. 1607

Senate Bill No. 1607 — To amend Section 50-902, Code.

Mr. Burnett (Fentress) moved that the motion to reconsider Senate Bill No. 1607 be lifted from the table, which motion prevailed.

Mr. Burnett (Fentress) moved that the House reconsider its action in passing Senate Bill No. 1607 on third and final reading, as amended.

Mr. Burnett (Fentress) moved that the House reconsider its action in adopting Amendment No. 2, which motion prevailed.

Mr. Burnett (Fentress) moved that Amendment No. 2 be withdrawn, which motion prevailed.

Mr. Burnett (Fentress) moved that Senate Bill No. 1607 be passed on third and final reading, which motion prevailed by the following vote:

Ayes.....	92
Noes.....	0
Present and not voting	1

Representatives voting aye were: Atchley, Bell, Bewley, Bissell, Blackburn, Bragg, Brewer, Buck, Burks, Burleson, Burnett (Fentress), Burnett (Sumner), Bussart, Butler, Byrd, Carter, Cawood, Chiles, Clark, Cobb, Copeland, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DeBerry, DePriest, Dixon, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Fuqua, Gaia, Gill, Good, Hall, Henry, Hillis, Hood, Hurley, Jensen, Johnson, Kernell, Lanier, Lashlee, Ledford, Longley, Love, McAfee, McKinney, Martin, Miller, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Murray (Madison), Naifeh, Nolan, Ozment, Phillips, Pickering, Pruitt, Rhinehart, Richardson, Robertson, Robinson (Davidson), Robinson (Hamilton), Scruggs, Shockley, Small, Smith, Spence, Stafford, Stallings, Starnes, Steinhauer, Tanner, Turner, Wallace, Watson, Webb, Williams, Withers, Wolfe, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 92.

Mr. Bragg moved that the rules be suspended in order to recall House Joint Resolution No. 328 from the Committee on Calendar and Rules for immediate consideration, which motion prevailed.

House Joint Resolution No. 328 — Relative to studying the annual growth of certain appropriations.

Mr. Bragg moved that House Joint Resolution No. 328 be adopted, which motion prevailed by the following vote:

Ayes.....	91
Noes.....	0

Representatives voting aye were: Ashford, Atchley, Bell, Bewley, Blackburn, Bragg, Brewer, Buck, Burks, Burleson, Burnett (Fentress), Burnett (Sumner), Bussart, Butler, Byrd, Carter, Cawood, Chiles, Clark, Cobb, Copeland, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DeBerry, DePriest, Dixon, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford

(Shelby), Fuqua, Gaia, Gill, Good, Hall, Henry, Hillis, Hood, Hurley, Jensen, Johnson, Kernell, Lanier, Ledford, Longley, Love, McAfee, McKinney, Martin, Miller, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Naifeh, Nolan, Ozment, Phillips, Pickering, Pruitt, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Hamilton), Scruggs, Shockley, Small, Smith, Spence, Stafford, Stallings, Starnes, Steinhauer, Tanner, Turner, Wallace, Watson, Webb, Williams, Withers, Wolfe, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 91.

A motion to reconsider was tabled.

Mr. Love moved that the rules be suspended for the purpose of introducing House Resolution No. 127 out of order, which motion prevailed.

House Resolution No. 127 — Relative to certain study, Education Committee — By Love.

On motion, the rules were suspended for the immediate consideration of the resolution.

On motion of Mr. Love, the resolution was adopted.

A motion to reconsider was tabled.

Mr. Love moved that the rules be suspended for the purpose of introducing House Resolution No. 129 out of order, which motion prevailed.

House Resolution No. 129 — Relative to certain study, Education Committee — By Love.

Mr. Love moved that House Resolution No. 129 be adopted, which motion prevailed by the following vote:

Ayes.....	75
Noes.....	3
Present and not voting	1

Representatives voting aye were: Atchley, Bell, Bewley, Bishop, Blackburn, Brewer, Buck, Burnett (Fentress), Burnett (Sumner), Bussart, Butler, Byrd, Cawood, Clark, Cobb, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DeBerry, DePriest, Elkins, Ellis, Fisher, Fleming, Ford (Shelby), Fuqua, Gaia, Good, Hall, Henry, Hillis, Hood, Hurley, Jensen, Johnson, Kernell, Lanier, Lashlee, Longley, Love, McKinney, Miller, Moore, Murphy (Shelby), Murray (Franklin), Murray (Madison), Naifeh, Nolan, Ozment, Phillips, Pickering, Pruitt, Richardson, Robinson (Davidson), Robinson (Hamilton), Scruggs, Shockley, Small, Smith, Spence, Stafford, Stallings, Starnes, Steinhauer, Tanner, Wallace, Watson, Webb, Withers, Wolfe, Wood, Work, Yelton and Mr. Speaker McWherter — 75.

Representatives voting no were: Burks, Rhinehart and Robertson — 3.

Representative present and not voting was: Richards — 1.

A motion to reconsider was tabled.

Mr. Robinson (Hamilton) moved that the rules be suspended for the purpose of recalling House Joint Resolution No. 487 from the Committee on Calendar and Rules for immediate consideration, which motion prevailed.

House Joint Resolution No. 487 — Relative to urging Joseph Califano to respect right to use tobacco products.

The resolution was adopted by the following vote:

Ayes.....	68
Noes.....	7
Present and not voting	13

Representatives voting aye were: Atchley, Bell, Bewley, Bishop, Blackburn, Bragg, Buck, Burks, Burleson, Bussart, Carter, Clark, Copeland, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DeBerry, DePriest, Dixon, Elkins, Ellis, Fisher, Fleming, Ford (Shelby), Fuqua, Gaia, Gill, Good, Hall, Hillis, Hurley, Jensen, Johnson, Lanier, Lashlee, Ledford, Longley, Love, McKinney, Miller, Murphy (Shelby), Murray (Franklin), Murray (Madison), Naifeh, Nolan, Phillips, Pickering, Pruitt, Rhinehart, Richards, Richardson, Robertson, Robinson (Hamilton), Shockley, Stafford, Stallings, Starnes, Steinhauer, Tanner, Wallace, Watson, Webb, Withers, Wolfe, Work, Yelton and Mr. Speaker McWherter — 68.

Representatives voting no were: Cawood, Chiles, Cobb, Kernell, Martin, Williams and Wood — 7.

Representatives present and not voting were: Ashford, Burnett (Sumner), Byrd, Ford (Cocke), Henry, Hood, McAfee, Moore, Murphy (Davidson), Ozment, Scruggs, Spence and Turner — 13.

A motion to reconsider was tabled.

Mr. Murray (Franklin) moved that the rules be suspended for the immediate consideration of Senate Joint Resolution No. 244, which motion prevailed.

Senate Joint Resolution No. 244 — Relative to memory, Reagor Motlow.

The resolution was concurred in by the following vote:

Ayes.....	99
Noes.....	0

Representatives voting aye were: Ashford, Atchley, Bell, Bewley, Bishop, Bissell, Blackburn, Bragg, Brewer, Buck, Burks, Burleson, Burnett (Fentress), Burnett (Sumner), Bussart, Butler, Byrd, Carter, Cawood, Chiles, Clark, Cobb, Copeland, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DeBerry, DePriest, Dixon, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Fuqua, Gaia, Gill, Good, Hall, Henry, Hillis, Hood, Hurley, Jensen, Johnson, Kernell, King, Lanier, Lashlee, Ledford, Longley, Love, McAfee, McKinney, Martin, Miller, Moore, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Murray (Madison), Naifeh, Nolan, Ozment, Phillips, Pickering, Pruitt, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Shockley, Small, Smith, Spence, Stafford, Stallings, Starnes, Steinhauer, Sterling, Tanner, Turner, Wallace, Watson, Webb, Williams, Withers, Wolfe, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 99.

A motion to reconsider was tabled.

HOUSE BILL ON SENATE AMENDMENTS

House Bill No. 1837 — To amend Industrial Development Corporation Act.

SENATE AMENDMENT NO. 1

Amend House Bill No. 1837 by striking all of the amendatory language in Section 1 and by substituting therein the following language:

"and in any municipality in which there has been created a Central Business Improvement District pursuant to T.C.A. 6-3901, et seq. the term project shall also mean any hotel, motel or other commercial lodging establishment and any apartment or other residential housing enterprise located within an area designated by the municipality as the Center City Area."

SENATE AMENDMENT NO. 10

Amend House Bill No. 1837 by deleting items (a) and (b) of the second sentence of the amendatory language of Section 6, and substituting in lieu thereof the following language:

- "(a) ad valorem taxes otherwise due and payable by a tax paying entity upon the current fair market value of the leased properties; or**
- (b) ad valorem taxes that were or would have been due and payable on the leased properties for the period immediately preceding the date of their acquisition by the corporation."**

AND FURTHER AMEND by deleting the third sentence of the amendatory language of Section 6, and substituting in lieu thereof the following language:

"Notwithstanding the above provisions, the amount payable in lieu of taxes by hotel and motel lessees, ten (10) years after completion of the project on leased property, shall be not less than the ad valorem taxes otherwise due and payable upon the current fair market value of the property. All such payments when made shall be in full satisfaction of the obligations of the corporations's lessees with regard to use and ad valorem taxation of leashold estates in corporation properties."

SENATE AMENDMENT NO. 11

Amend House Bill No. 1837 by striking Section 9 and Section 10.

SENATE AMENDMENT NO. 12

Amend House Bill No. 1837 by striking Section 5 in its entirety and substituting therein the following:

"SECTION 5. The last sentence of Tennessee Code Annotated, Section 6-2807, shall not apply to this act."

SENATE AMENDMENT NO. 13

Amend House Bill No. 1837 by striking the following:

"SECTION 8. The provisions of this act shall also apply to any county having a metropolitan form of government"

SENATE AMENDMENT NO. 14

Amend House Bill No. 1837 by striking the following amendatory language in Section 1:

"other commercial lodging establishment and any apartment or other residential housing enterprise"

and by inserting therein the words:

"apartment building"

AND FURTHER AMEND by striking the following amendatory language in Section 2:

"or any hotel, motel, other commercial lodging establishment, any apartment building or other residential housing enterprise"

and by inserting therein the following language:

"or any hotel, motel or apartment building."

AND FURTHER AMEND Section 2 by striking the following language:

"and with regard to any apartment building or residential housing enterprise that the construction of same will increase the quantity of housing available in the municipality,"

and by inserting therein the following language:

"and with regard to any apartment building that the construction of same will increase the quantity of housing available in the municipality,"

Section 4 by striking the following language:

"service or commercial lodging enterprise or residential housing"

and inserting therein the following language:

"hotel, motel or apartment building"

AND FURTHER AMEND Section 7 by striking the following language:

"no hotel, motel or other commercial lodging establishment, or apartment or other residential housing enterprise shall be purchased or otherwise acquired by a corporation under the provisions of this act after July 1, 1988."

and by inserting therein the following language:

"no hotel, motel or apartment building shall be purchased or otherwise acquired by a corporation under the provisions of this act after July 1, 1988."

Mr. Martin moved that the House concur in Senate Amendments Nos. 1, 10, 11, 12, 13 and 14, which motion prevailed by the following vote:

Ayes.....	92
Noes.....	1
Present and not voting	1

Representatives voting aye were: Ashford, Atchley, Bell, Bewley, Bishop, Blackburn, Bragg, Brewer, Buck, Burks, Burleson, Burnett (Fentress), Bussart, Butler, Byrd, Carter, Cawood, Clark, Cobb, Copeland, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DeBerry, DePriest, Dixon, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Fuqua, Gaia, Gill, Hall, Henry, Hillis, Hood, Hurley, Jensen, Johnson, Kernell, Lanier, Ledford, Longley, Love, McAfee, McKinney, Martin, Miller, Moore, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Murray (Madison), Naifeh, Nolan, Ozment, Phillips, Pickering, Pruitt, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Hamilton), Scruggs, Shockley, Small, Smith, Spence, Stafford, Stallings, Starnes, Steinhauer, Sterling, Tanner, Turner, Wallace, Watson, Webb, Williams, Withers, Wolfe, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 92.

Representative voting no was: Chiles — 1.

Representative present and not voting was: Burnett (Sumner) — 1.

A motion to reconsider was tabled.

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 651 — To make provisions, evidence of medical expenses.

SENATE AMENDMENT NO. 3

Amend House Bill No. 651 by striking in Section 2 the date "1977", and inserting therein the date "1978."

Mr. Turner moved that the House concur in Senate Amendment No. 3, which motion prevailed by the following vote:

Ayes.....	89
Noes.....	0

Representatives voting aye were: Ashford, Atchley, Bell, Bewley, Bishop, Blackburn, Bragg, Brewer, Buck, Burks, Burleson, Burnett (Fentress), Burnett (Sumner), Bussart, Butler, Byrd, Carter, Cawood, Chiles, Clark, Cobb, Copeland, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DeBerry, DePriest, Dixon, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Fuqua, Gaia, Gill, Good, Hall, Henry, Hillis, Hood, Hurley, Johnson, Kernell, Lanier, Ledford, Longley, Love, McAfee, McKinney, Martin, Miller, Moore, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Naifeh, Nolan, Ozment, Phillips, Richards, Richardson, Robertson, Robinson (Hamilton), Scruggs, Shockley, Small, Smith, Spence, Stafford, Stallings, Starnes, Steinhauer, Sterling, Tanner, Turner, Wallace, Watson, Webb, Williams, Withers, Wolfe, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 89.

A motion to reconsider was tabled.

Mr. Davidson (Wayne) moved that the rules be suspended for the purpose of introducing House Joint Resolution No. 501 out of order, which motion prevailed.

House Joint Resolution No. 501 — Relative to congratulating Mike Rhodes — By Davidson (Wayne), Fuqua, Hillis, Stallings, Bishop, Burnett (Sumner), Blackburn, Yelton, Hood, Burleson, Butler, Watson, Lashlee, Lanier, Buck, Stafford, Naifeh and Mr. Speaker McWherter.

On motion, the rules were suspended for the immediate consideration of the resolution.

On motion of Mr. Davidson (Wayne), the resolution was adopted.

A motion to reconsider was tabled.

Mr. Wood moved that the rules be suspended for the purpose of introducing House Joint Resolution No. 495 out of order, which motion prevailed.

House Joint Resolution No. 495 — Relative to honoring Stanley J. Farmer — By Wood, Starnes, Copeland, Carter, Robinson (Hamilton), Davis and McAfee.

On motion, the rules were suspended for the immediate consideration of the resolution.

On motion of Mr. Wood, the resolution was adopted.

A motion to reconsider was tabled.

SECOND ROLL CALL

A roll call was taken with the following results:

Present 97

Representatives present were: Ashford, Atchley, Bell, Bewley, Bishop, Blackburn, Bragg, Brewer, Buck, Burks, Burleson, Burnett (Fentress), Burnett (Sumner), Bussart, Butler, Byrd, Carter, Cawood, Chiles, Clark, Cobb, Copeland, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DeBerry, DePriest, Dixon, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Fuqua, Gaia, Gill, Good, Hall, Henry, Hillis, Hood, Hurley, Jensen, Johnson, Kernell, Lanier, Lashlee, Ledford, Longley, Love, McAfee, McKinney, Martin, Miller, Moore, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Murray (Madison), Naifeh, Nolan, Oment, Phillips, Pickering, Pruitt, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Shockley, Small, Smith, Spence, Stafford, Stallings, Starnes, Steinhauer, Sterling, Tanner, Turner, Wallace, Watson, Webb, Williams, Withers, Wolfe, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 97.

INTRODUCTION OF BILL

House Bill No. 2560 — To make certain provisions, sale of blood and parts thereof — By Murphy (Davidson), Jensen, Chiles and Steinhauer.

Passed first reading.

SENATE BILLS ON FIRST READING

Senate Bill No. 1777 — To amend Sections 12-423 and 12-443, Code.

Passed first reading.

Senate Bill No. 1879 — To regulate voting absentee.

Passed first reading.

Senate Bill No. 1970 — To amend Sections 63-530 thru 63-561, Code.

Passed first reading.

Senate Bill No. 2060 — To amend Section 16-601, Code.

Passed first reading.

Senate Bill No. 2385 — To make appropriations, museum of music, Memphis.

Passed first reading.

HOUSE BILLS ON SECOND READING

House Bill No. 2551 — To amend Chapter 32, Private Acts, 1969.

Passed second reading and held without reference.

House Bill No. 2552 — To levy privilege tax on lodgings, Sevier County.

Passed second reading and held without reference.

House Bill No. 2553 — To provide for referendum, metropolitan form of government, Sullivan County.

Passed second reading and held without reference.

House Bill No. 2554 — To provide for referendum, location of prison, Sullivan County.

Passed second reading and held without reference.

House Bill No. 2555 — To amend Chapter 146, Private Acts, 1941.

Passed second reading and held without reference.

House Bill No. 2556 — To regulate sanitary landfills, Washington County.

Passed second reading and held without reference.

House Bill No. 2557 — To amend Chapter 228, Private Acts, 1949.

Passed second reading and held without reference.

House Bill No. 2558 — To make certain provisions, tax on alcoholic beverages.

Passed second reading and referred to Committee on State and Local Government.

House Bill No. 2559 — To clarify boundaries, Huntingdon Special School District.

Passed second reading and held without reference.

House Bill No. 2561 — To create Road Advisory Commission, Van Buren County.

Passed second reading and held without reference.

House Bill No. 2562 — To regulate practice of massage, Johnson County.

Passed second reading and held without reference.

House Bill No. 2563 — To amend Charter, Jefferson City.

Passed second reading and held without reference.

STANDING COMMITTEE REPORTS

COMMERCE

MR. SPEAKER: Your Committee on Commerce begs leave to report that we have carefully considered and recommend for passage: House Bills Nos. 2037 and 2173, and House Joint Resolution No. 379.

MURRAY (Franklin), Chairman

Under the rules, House Bills Nos. 2037 and 2173 and House Joint Resolution No. 379 were transmitted to the Committee on Calendar and Rules.

CONSERVATION AND ENVIRONMENT

MR. SPEAKER: Your Committee on Conservation and Environment begs leave to report that we have carefully considered and recommend for passage: House Bill No. 2181.

WATSON, Chairman

Under the rules, House Bill No. 2181 was transmitted to the Committee on Calendar and Rules.

FINANCE, WAYS AND MEANS

MR. SPEAKER: Your Committee on Finance, Ways and Means begs leave to report that we have carefully considered and recommend for passage: House Bills Nos. 1828 and 2034 (with amendment), and House Joint Resolution No. 465.

BRAGG, Chairman

Under the rules, House Bills Nos. 1828 and 2034; and House Joint Resolution No. 465 were transmitted to the Committee on Calendar and Rules.

REPORT OF COMMITTEE ON CALENDAR AND RULES

MR. SPEAKER: Your Committee on Calendar and Rules begs leave to report that we have met and set the following bills on the Calendar for Wednesday, March 15, 1978: House Bills Nos. 2275, 2282, 2065, 2246, 1718, 1719, 1910, 1912, 1913, 1914; House Joint Resolution

No. 465; House Bills Nos. 2327, 2075, 1331, 2365; House Resolution No. 100 and House Bills Nos. 2144 and 2350.

LANIER, Chairman.

LOCAL BILLS REFERRED TO CALENDAR AND RULES

In accordance with Rule No. 47, the following local bills, having received authorization for passage by the local legislative delegation, were transmitted to the Committee on Calendar and Rules: House Bills Nos. 2504, 2520, 2540, 2545, 2547, 2548, 2552, 2553, 2554, 2555, 2556, 2562 and 2563.

SPONSORS ADDED

Without objection, the rules were suspended to allow the following members to add their names as sponsors to the bills as indicated below, the prime sponsor of each having agreed to such addition:

House Bill No. 338 — Martin

House Bill No. 395 — Burnett (Sumner)

House Bill No. 1927 — Hurley, Robinson (Washington)

House Bill No. 2199 — Darnell

House Joint Resolution No. 486 — Bragg

House Joint Resolution No. 487 — Hurley, Bewley, Stafford

On motion of Mr. Blackburn, his name was removed as sponsor of House Joint Resolutions Nos. 413 and 453.

MOTIONS

On motion of Mr. Copeland, House Bill No. 2418 was recalled from the Committee on Commerce.

On motion of Mr. Copeland, House Bill No. 2418 was withdrawn from the House.

On motion of Mr. Burks, House Bill No. 2312 was withdrawn from the House.

Mr. Henry asked to be recorded as voting no on Amendment No. 1 to House Bill No. 395.

ENGROSSED BILLS

MR. SPEAKER:

Your Chief Engrossing Clerk begs leave to report that we have carefully examined House Bills Nos. 395, 1742, 1755, 1851, 1865, 1927, 2020, 2021, 2301, 2381, 2415 and 2434; and House Joint Resolutions Nos. 328, 450, 482, 487, 495, 500 and 501; and find same correctly engrossed and ready for transmission to the Senate.

MARILYN EVELYN HAND,
Chief Engrossing Clerk.

On motion of Mr. Burnett (Fentress), the House adjourned until 9:00 a.m. tomorrow.